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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Ninth periodic reports of States parties due in 1999

Addendum

Sri Lanka*

[4 September 2000]

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* The present report brings together in a single document the seventh, eighth and ninth periodic reports of Sri Lanka, which were due on 20 March 1995, 1997 and 1999. For the third to sixth periodic reports of Sri Lanka, submitted in one document, and the summary records of the meetings at which the Committee considered those reports see documents CERD/C/234/Add.1 and CERD/C/SR.1079-1080.

The information submitted by Sri Lanka in accordance with the guidelines for the initial part of the report of States parties is contained in HRI/CORE/1/Add.48.

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I. GENERAL

1. This report, which contains Sri Lanka's seventh, eighth and ninth periodic reports to be submitted under article 9 of the International Convention for the Elimination of All Forms of Racial Discrimination, covers a critical period (1994-1999) in the history of socio-political institutions and ethnic relations in the country.

2. The third, fourth, fifth and sixth periodic reports were submitted to the Committee in 1994 (CERD/C/234/Add.1) and information submitted by Sri Lanka in accordance with the consolidated guidelines concerning the initial part of reports of States parties is contained in the core document (HR1/CORE/1/Add.48).

3. Given below are statistics relating to the ethnic composition of the population according to province:

Ethnic composition of the population according to provinces - 1981

Province	Total	Sinhalese	Tamils	Indian Tamils	Muslims	Others
Western	3 919 807	84.7	5.8	1.5	6.9	1.1
Central	2 009 248	65.6	7.5	19.0	7.5	0.4
Southern	1 882 661	95.0	0.8	1.3	2.7	0.2
Northern	1 109 404	3.2	86.3	5.7	4.6	0.2
Eastern	975 251	25.0	40.9	1.1	32.5	0.5
N. Western	1 704 334	89.9	2.8	0.5	6.6	0.2
N. Central	849 492	91.2	1.6	0.5	6.9	0.2
Uva	914 522	76.2	4.7	15.1	3.7	0.3
Sabaragamuwa	1 482 031	85.4	2.3	8.8	3.4	0.1
Sri Lanka	14 846 750	74.0	12.7	5.5	7.3	0.5

Source: Department of Census and Statistics.

Note: Others include Burghers, Malays, Parsis, Veddhas and a small number of various other permanent residents of Sri Lanka. No national census has been taken since 1981. At present the population of Sri Lanka is estimated at 18.3 million.

4. The present Government, which assumed office in 1994, has taken a definite and positive stand and pursued a proactive policy on the question of the ethnic issue. During the last five years, unprecedented measures have been initiated to further strengthen equality, social justice and dignity for the people of Sri Lanka. During this period, the Government has pursued a "one nation - one people" policy, which emphasizes the unity of the country while recognizing its multi-cultural and multi-religious nature.

5. It needs to be reiterated that there has never been a practice of discrimination based on race in Sri Lanka. Certain policies were pursued during the post-independence era that were intended to correct injustices caused to those belonging to the majority of the population during colonial rule. Although these were not intended to discriminate against the minority communities, they were in fact perceived as alienating the minorities and created an ethnic divide between the Sinhala and Tamil communities. A conscious effort is being made to rectify these anomalies through constitutional amendments, facilitating unprecedented devolution of political power and a robust legal regime for the promotion and protection of human rights consistent with international standards. The Government's proposals for constitutional reform, while taking into account the country's past experience, looks forward to a future which is more harmonious. Side by side with the process of constitutional reform, an island-wide campaign for peace and national reconciliation has been continuing to foster inter-ethnic harmony.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

6. Sri Lanka is committed to building a society where all communities can live in safety and security, where human dignity is valued and equality of treatment is an accepted norm of public life. Effort is continuously made to ensure that all communities have the space to express their identity, including the right to enjoy their own culture, profess and practise their own religion and nurture and promote their own language, and that all communities participate fully in the life of the nation, whether it be at national, provincial or local level.

7. From the time of independence, various legislative, judicial and administrative measures have been adopted by successive Governments to address the demands of minority communities. The present Government has taken steps to identify the remaining elements which may contribute to perceptions of discrimination between people on the basis of race, with a view to eradicating them and to creating an environment for harmonious ethnic relations within society. Areas of priority concern to the Government are as follows:

(a) Constitutional reform including strengthening of the human rights regime, abolition of the executive presidency and devolution of power;

(b) Effective implementation of the language policy adopted in 1987, which made both Sinhala and Tamil official languages, including implementation of the right to transact business with the State in the national language of one's choice;

(c) A negotiated political settlement to the issues affecting the northern and the eastern provinces of the country.

Constitutional reform

8. A study of a devolution package which would provide an effective constitutional framework for the sharing of power with regions based on an internally consistent and coherent value system was undertaken by the Government as soon as it assumed office in November 1994. This was within the wider context of the overall process of constitutional reform. Devolution of power to regions would empower the people at the periphery and enable them to make decisions on issues directly relevant to them without reference to a central authority. The proposed scheme is capable of effective implementation and will include structures for the just and equitable resolution of disputes between the centre and regions.

9. A Parliamentary Select Committee (PSC) comprising representatives of all political parties holding seats in Parliament chaired by the Minister of Justice and Constitutional Affairs was appointed in September 1994 to carry out the task of drafting a new constitution. The PSC during the period September 1994 to October 1997 held a total of 77 sittings, which included widespread consultations with members of the public, registered political parties, non-governmental organizations and academics. On 24 October 1997 the PSC submitted to Parliament proposals for constitutional reform, together with suggestions made by various political parties. Based on these proposals, the negotiations on the proposed constitutional reforms among the two major political parties and other Tamil political parties are continuing.

10. The fundamental rights chapter in the draft constitution is wider in scope than that of the present Constitution. It introduces a number of new rights not contained in the old chapter, such as the right to life, the right to affirmative action for disadvantaged sections of the society, the right to leave the country, the right to own property and to fair compensation, the right to privacy and the right to information. It also confers on a broad range of rights, which have always formed the cornerstone of the general criminal law of the land, the status of constitutionally guaranteed fundamental rights. These are:

(a) The right of an arrested person to communicate with a relative or friend;

(b) The right to retain legal counsel;

(c) The right to be told the reasons for arrest, and the practice of a 24-hour limit of custody prior to being brought before a judicial officer;

(d) The right to reasonable bail;

(e) The right to be charged or released without unreasonable delay;

(f) The freedom from self-incrimination;

(g) The right not to be tried more than once for the same offence;

(h) The right to humane treatment whilst in custody.

11. The Supreme Court under the draft constitution will have the power to review future legislation. In aiming to strike a balance between two very important interests, i.e. the stability of the law and the compliance of the law with fundamental rights and freedoms protected by the Constitution, the PSC, after much deliberation, has determined to allow judicial review of future legislation for a period of two years from the date of enactment.

12. The restrictions on fundamental rights have been strictly limited to specific situations where they are necessary in the interests of a democratic society. The rights expressed in the 1978 Constitution were mainly available to "citizens", but this has been expanded in many instances to "persons" under the draft constitution. The right to apply to the Supreme Court in respect of infringement of fundamental rights by an executive or administrative authority has been expanded to include infringement by judicial action in respect of criminal proceedings in courts of original jurisdiction. Public interest litigation has been accorded recognition and the time limit for filing a fundamental rights application has been extended from one month to three months.

13. A clear commitment to the abolition of the executive presidency is manifest in the provisions of the draft constitution. The President, under the draft constitution, will be a ceremonial head of State who will act on the advice of the Prime Minister and the Cabinet of ministers. This will inevitably mean that the rightful authority of Parliament will be restored and that the executive will be answerable to Parliament for its actions. The President will be elected by a two-thirds majority of Parliament on the basis of a single transferable vote. The restoration of the Cabinet form of government is assured.

A negotiated political solution

14. The resumption of a dialogue between the Liberation Tigers of Tamil Eelam (LTTE) and the Government of Sri Lanka (GOSL) to find a durable solution to the issues affecting the North and the East was accorded priority consideration by the Government. Between October 1994 and April 1995 four rounds of peace talks were concluded between the Government and the LTTE. (The second round of peace talks, scheduled for 24 October 1994, was suspended following a bomb attack by the LTTE at an opposition political rally in which the opposition presidential candidate and more than 50 others were killed. Despite this grave provocation, the Government held the second round of peace talks with the LTTE on 3 January 1995.)

15. The principal components of the Government's policy during its negotiations with the LTTE were:

(a) The alleviation of hardship on the people in the North and the East due to terrorist-initiated violence;

(b) The conclusion of a cessation of hostilities agreement with the LTTE; and

(c) The attainment of a durable solution to the ethnic issues through a political dialogue.

16. The Government's commitment to the peace process was evident in the following concrete measures that were taken since it initiated the dialogue with the LTTE:

(a) In order to alleviate the hardship faced by the people of the North resulting from the restrictions on certain items imposed for security reasons, the restrictions in respect of more than 70 items were lifted. Restrictions remained with regard to only eight items that had direct military implications. In addition, prompt action was taken by the Government to remove constraints and obstacles of an administrative nature relating to delays in the transport of items. The Government also removed the restriction on fishing throughout northern and eastern waters except in a very small number of clearly designated zones;

(b) The first phase of the negotiations with the LTTE was primarily concerned with the implementation of a comprehensive rehabilitation and reconstruction package for the North and the East. A Rs 39 billion package was evolved for this purpose. The Government endeavoured to put into action a plan to reconstruct roads, irrigation canals, hospitals, schools and a variety of amenities which the people had been deprived of during the conflict. In order to meet the LTTE's condition that a separate authority be established to implement development projects in the North, the Government appointed a Special Task Force headed by a Cabinet minister and indicated its readiness to accept the LTTE's participation in the Task Force;

(c) In order to facilitate rapid development work in the North and vehicular traffic to and from the Jaffna peninsula, the Government agreed to the opening of the Elephant Pass and Sangupiddy routes linking Jaffna peninsula to the mainland. This measure was also intended to ease the travelling conditions for pilgrims from Jaffna to Colombo during the visit of His Holiness the Pope. However, no agreement could be arrived at with the LTTE on this issue, as the LTTE linked the opening of a safe passage to Jaffna to the removal of the army camp located near the Pooneryn-Sangupiddy road. The Government had pointed out that the removal of camps had clear security implications and would be detrimental to public order. However, in order not to jeopardize the peace process, the Government undertook to revert to this issue in three months in the overall context of the peace talks. In the interim, the Government withdrew the camp perimeter by 600 metres and gave an undertaking not to place any checkpoints on the road to allow unobstructed use of it by civilians.

17. Following the second round of peace talks, the Cessation of Hostilities Agreement came into effect on 8 January 1995. Under the agreement, Committees of Investigation into Violation of the Terms of Cessation of Hostilities (Peace Committees) were to be set up in the areas of Jaffna, Mannar, Mullaitivu, Vavuniya, Trincomalee, Batticaloa, Amparai and others as deemed necessary. Each Committee was to be comprised of Government and LTTE representatives. Representatives of the Governments of Canada, Norway and the Netherlands were to serve as

Chairs of the Committees. On some of the other issues raised by the LTTF which had clear security implications to the advantage of the LTTE (such as the movement of armed LTTE cadres in the East), the Government undertook to conclude an annex to the Cessation of Hostilities Agreement incorporating these demands.

18. The Government had informed the LTTE that these and other issues raised by the LTTE could further be discussed and resolved once the Peace Committees began to function. The Government repeatedly requested from the LTTE that the Peace Committee be permitted to function. However, the LTTE's insistence on new conditions prevented the committees from functioning.

19. Despite the positive response of the Government to the new conditions put forward by the LTTE, the Cessation of Hostilities Agreement was unilaterally violated by the LTTE on 19 April 1995. Two naval boats of the Sri Lanka navy berthed in the Trincomalee harbour were exploded by undersea terrorist operations undertaken by an LTTE squad, causing the death of several navy personnel and injuries to others. The LTTE attack on the Trincomalee harbour was followed by a series of attacks on government forces (including the shooting down of two aircraft with surface-to-air missiles) and massacres of civilians, resulting in hundreds of deaths.

20. In view of the unilateral rejection by the LTTE of the Government's peace initiative and its resumption of hostile activities of a terrorist nature, the security forces have been compelled to take countermeasures. As much as the Government is committed to the pursuit of peace, it is equally committed to the security and territorial integrity of the State and the safety of its people. The Government has emphasized time and again that its military response is not directed against the Tamil people, but at the LTTE.

21. Despite repeated efforts by the Government to persuade the LTTE to join the democratic negotiation process, this terrorist group had continued its violent campaign to establish a mono-ethnic separate State in Sri Lanka. They in fact intensified indiscriminate attacks against civilian targets both in the North and the East, as well as in Colombo. Since their unilateral abrogation of talks in April 1995, the LTTE has carried out large-scale attacks against civilians by bombing passenger trains, attacking the Central Bank and the World Trade Centre in Colombo, a UNESCO heritage site in Kandy (Temple of the Tooth, a Buddhist shrine) as well as killing a number of elected leaders, particularly those from the Tamil community including Dr. Neelan Thiruchelvam, who campaigned for the human rights of Tamils and was one of the drafters of constitutional reform to devolve power as a solution to the ethnic issue.

22. The Government also invited Norway as a facilitator in possible discussions with the LTTE, since the LTTE and a number of other Tamil leaders have urged that such a third party be involved in the peace process as a confidence-building measure. From about 1998, Norway has been seeking to help as a facilitator in the peace talks, but the LTTE has remained firm in its view that the only solution is to have a separate country for one community in Sri Lanka. The Government has nevertheless continued its efforts to build consensus among the parties represented in Parliament as an alternative to ethnic separation by introducing the constitutional reforms with a view to devolving powers to the regions, so that all communities can enjoy a

substantial degree of self-government as a means of satisfying their aspirations. Nevertheless, further consultations with the political parties, including the Tamil parties present in Parliament, are underway to discuss the proposals for constitutional reform and devolution of power. Since the Government was planning to hold parliamentary elections during the course of the year 2000, the electorate itself will be enabled to pronounce on these constitutional proposals.

23. The Government has also very clearly stated that the door remains open for the LTTE to join the democratic process and the discussions with other parties, including the Government, to arrive at a negotiated political solution acceptable to all communities.

Language rights

24. The Constitution, as amended by the thirteenth and the sixteenth amendments, gives parity of status to the languages of the majority and the minorities. The official languages are Sinhala and Tamil, while English is the link language.

25. In terms of the constitutional provisions, both Sinhala and Tamil shall be the language of administration and of the courts throughout Sri Lanka. Sinhala will be used as the language of administration and of the courts in all provinces other than in the Northern and the Eastern provinces, where Tamil will be so used. Thus, Tamil is to be used for the maintenance of public records and for the transaction of all business in the Northern and the Eastern provinces. The Constitution, however, ensures the right of a person in any province to receive communications and to communicate and transact business in Sinhala, Tamil or English. It also ensures the right to inspect and obtain copies of or extracts from any official register, record, publication or other document or a translation thereof, as the case may be, in Sinhala, Tamil or English.

26. Similarly, every person is entitled to institute proceedings, submit court pleadings and other documents and participate in court proceedings in either Sinhala or Tamil. Any person who is not conversant with the language used in a court is entitled to interpretation and translation into Sinhala or Tamil and is also entitled to obtain in such language any part of the record, or a translation, as he/she may be entitled to obtain according to law.

27. The law also recognizes the right of persons to be educated in either Sinhala or Tamil and imposes a duty on the State to publish all laws and subordinate legislation in all three languages. There is also a positive duty imposed on the State to enact legislation and provide adequate facilities for the implementation of the provisions of the Constitution.

28. Under the provisions of the Official Languages Commission Act No. 18 of 1991, the failure of a public servant to comply with the language law is an offence punishable by law. Therefore, when a public officer wilfully fails or neglects to transact business or issue copies or extracts in the relevant language, he can be found guilty of an offence and shall, on conviction after summary trial before a magistrate, be liable to a fine not exceeding Rs 1,000 or to imprisonment for a term not exceeding three months or to both (sect. 28 (1)).

29. Despite the adoption of a policy of trilinguism aimed at providing facilities for the members of the public to use any of the three languages, there are at present certain difficulties in implementing this policy effectively and meaningfully. All public servants are not fully aware of their duty pertaining to the language law and the public at large is also unaware of their rights under the law. Furthermore, while competency in at least Sinhala and Tamil among public servants is imperative for the effective implementation of the language law, the bilingual/trilingual capacity of the public service is at present inadequate.

30. The Government, through the Department of Official Languages, which is responsible for the implementation and monitoring of the language law, aims to overcome these constraints by concerted action. The Department's island-wide public advocacy programme uses various strategies such as poster campaigns, distribution of handouts and brochures, seminars, workshops, book exhibitions, public meetings and publication of newspaper articles to educate public servants on their duties and to enlighten the public as to how the language law affects them.

31. The Department has been enhancing the trilingual capacity in public offices by providing language courses throughout the country (except in the North and the East). These classes are conducted in divisional secretariats, government departments, ministries and other State institutions. Personnel of the security forces are also provided with this facility. The classes are of nine months' duration encompassing 108 hours of study. Trainees are provided with course material specially prepared by the Department with intensive study units and strategies, which are made available at a nominal fee. Candidates who complete the course are awarded certificates and a bonus of Rs 500 as an incentive.

32. The public service in Sri Lanka consists of approximately 300,000 persons. Annually about 10,000 public servants undergo language training provided by the Department. The Department is in the process of establishing a language laboratory to facilitate its training activities and provide refresher and follow-up courses. In 1998, the Department commenced a two-year special course to train General Certificate of Education Advanced Level qualified persons as translators.

33. The Department is also involved in the following activities:

(a) Compiling and publishing glossaries of technical terms, dictionaries and manuals with a view to facilitating the effective implementation of the language law. (Some important glossaries earlier published in Sinhala and English are now being published in the three languages.);

(b) Serving as the principal translator of the Government in the Sinhala, Tamil and English languages;

(c) Redesigning and trilingualizing forms used in public offices using symbols and simple terminology;

(d) Implementing an Inter-Cultural Activity Programme to foster understanding of the culture of the majority among the minority Tamil and Muslim communities and vice versa, as a long term strategy to achieve communal harmony.

34. In July 1997, the President issued directives to all ministries to take the following actions to expedite the implementation of the language law:

(a) All regulations, legal provisions and information to be available to the public in all three languages;

(b) All printed forms to be available in all three languages. Where any institution has a large stock of forms already printed, it may print a reasonable number afresh in the Tamil language only, to be attached to the Sinhala/English version;

(c) All name boards of public institutions and other instructions or directives meant for the public to be displayed in all three languages;

(d) Action to be taken to fill immediately all vacancies in the posts of Sinhala - Tamil translators and Tamil typists. Institutions that do not have a cadre should make use of persons on contractual basis;

(e) A senior officer to be identified in every institution and charged with the responsibility for implementing the provisions relating to language.

The work of the Ministry of Justice, Ethnic Affairs and National Integration

35. The Ministry of Justice, Ethnic Affairs and National Integration is responsible for implementing the Government's policy on ethnic affairs. The Ministry is at present focusing on the following activities:

(a) Formulation of suitable policies and programmes for the implementation of existing laws and regulations governing fundamental rights, language and other obligations;

(b) Systematic planning and implementation of a vigorous public awareness programme to eliminate ingrained prejudices, promote democracy and power sharing, so as to pave the way for a peaceful settlement of the crisis;

(c) Promoting multiculturalism by assisting various institutions of the Government in launching programmes to achieve greater appreciation and understanding of the multi-lingual and multi-religious nature of the Sri Lankan society;

(d) Monitoring the violation of the fundamental right to protection from discrimination on the basis of race and introducing suitable measures for securing equality of treatment for all communities;

(e) Undertaking research and carrying out studies to ascertain the deep-rooted causes for the conflict and formulating programmes for their mitigation.

36. As part of the public advocacy programme, the Ministry has launched a consultative process with the people. For this purpose, countrywide seminars, workshops, training programmes, youth camps and public rallies have been organized at various levels. These programmes are aimed at educating public sector employees, non-governmental organizations and the general public.

37. The Ministry has also set up a Strategic Research Centre (SRC), which is preparing a strategy paper and an agenda for action to guide the activities of the Ministry in the future. The main objective of the SRC is to promote the vision of Sri Lanka as a multi-cultural, multi-ethnic and multi-religious society.

38. A parliamentary consultative committee meets regularly to review the progress made by the Ministry. It has become a forum for representatives of the minorities to air the grievances of their communities. Problems deliberated in the past by this committee include the issuing of identity cards to the Tamil-speaking estate population, writing of National Identity Cards in Tamil, allocation of finances to predominantly Tamil areas and allocation of employment to minorities on an ethnic quota basis.

The Sudu Nelum Movement

39. The Sudu Nelum (White Lotus) Movement was launched in July 1995 under the leadership of the President. It was a mass movement for the promotion of peace, cordiality and communal harmony among the diverse ethnic, religious, political and other groups living in Sri Lanka and to achieve the ideal of one national identity. The main objectives of the Movement were to create greater public awareness of the critical importance of the current political proposals as a solution to the conflict by disseminating information and mobilizing support for their implementation. The Movement has launched a series of district-and-rural level discussions on the nature of the conflict in Sri Lanka and the possibility and necessity of political measures to ensure the rights of all communities in the country, by way of seminars, workshops and youth camps. It advocates the Government's devolution proposals as an acceptable political alternative to the current situation. A "Devolution Week" was held in each district to enlighten the masses about the benefits of devolving power to the regions.

40. An important project launched by the Sudu Nelum Movement was the reconstruction of the Jaffna Public Library. The Movement is of the view that the whole nation should collectively participate in this project. Hence in April 1997, "A Brick and a Book" campaign was launched in order to provide citizens belonging to all strata of society, including schoolchildren, the opportunity of becoming partners in this task. It is proposed to symbolize the rural-level participation in the task of restoring the Jaffna Library by collecting a brick and a book from every village in the island. It is hoped that the new Jaffna Library will become a monument to the Government's effort to bring peace and normalcy to the North.

41. In August 1997, the Sudu Nelum Movement launched an island-wide publicity campaign named the "Sama Thawalama" or "Peace Caravan" as part of its programme to raise awareness among all communities about the Government's peace proposals and the constitutional reform

process. This campaign uses street drama, songs, poems, posters, photographic and book exhibitions and video and film shows on the theme "one country - one people" to drive its message home.

42. The Movement also extends support to numerous other institutions which are active in and committed to promoting national unity in Sri Lanka.

National Programme on Peace Education

43. Recognition of the need to bring up a generation which will view society with a broader outlook and coexist with non-racist principles has led to measures being taken to foster and inculcate ideas of peace and coexistence among school-going children. These measures include the incorporation of human rights education and education for conflict resolution in the curriculum, revision of school curricula and rewriting of textbooks to eliminate historical distortions, teacher-training programmes for peace educators, and multi-cultural programmes for youth who will be tomorrow's leaders.

44. In addition to these measures, in September 1995 the Government set up a Peace Education Unit in the Ministry of Education and Higher Education to inculcate the values of peace and harmony among schoolchildren as they are vital for co-existence in a pluralist society. The Unit has initiated "Peace Friendship Forums" in schools to encourage students to engage in peace-related activities and to foster leadership and commitment to the idea of peaceful coexistence. The period 3-7 March 1997 was declared "School Peace Week" by the Unit and celebrated in schools island-wide with a variety of activities such as art exhibitions on the theme of peace.

Article 3

45. Sri Lanka took an uncompromising stand against apartheid and condemned it both at the United Nations and at other international forums such as the Non-Aligned Movement. Sri Lanka ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid, which came into force in 1970. Sri Lanka has supported and voted for all resolutions in the United Nations aimed at combating and eradicating apartheid in South Africa. As proof of this commitment, strong disciplinary action was taken against members of the national cricket team who visited South Africa in the early 1980s.

46. Sri Lanka, together with other nations, welcomed the dismantling of the policy of apartheid and the successful conclusion of multi-racial elections in South Africa in April 1994. Sri Lanka announced the establishment of diplomatic relations with South Africa in September 1994. In May 1996, a team of Cabinet ministers visited South Africa to promote trade and tourism between the two countries. A team comprising the Minister of Justice and Constitutional Affairs and other officials of the Ministry visited South Africa to study the constitutional developments that have taken place there. In November 1997, a resident diplomatic mission was opened in Pretoria.

Article 4

47. The right to freedom of expression is recognised as a fundamental human right in the Constitution (art. 14 (1) (a)). However, it is recognized that this right can be restricted in the interests of racial and religious harmony, defamation, or an incitement to an offence (art. 15 (2)).

48. Following its consideration of Sri Lanka's previous report to CERD, the Committee requested further information on offences relating to the advocacy of racial and religious hatred that constitutes incitement to discrimination, destruction and violence and the penalties therefor. In response to this request, the specific sections of the relevant legislation are cited below.

49. Under the Prevention of Terrorism Act No. 48 of 1979, any person who by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities, racial or religious groups, is guilty of an offence (sect. 2 (i) (h)). A person found guilty of such an offence is punishable with imprisonment for a period not less than five years but not exceeding 20 years (sect. 2 (ii)).

50. Furthermore, in terms of section 290 of the Penal Code, whoever destroys, damages or defiles any place of worship or any object held sacred by any class of person with the intention of thereby insulting the religion of any class of person or with the knowledge that any class is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of up to two years or a fine or both.

51. The recommendation made by the Committee that Sri Lanka adopt specific penal legislation in accordance with General Recommendation 15 adopted by the Committee is under consideration.

Article 5

The right to equal treatment before the law

52. From the colonial period, the right to recognition as a person before the law has formed the very foundation on which the legal system of Sri Lanka is based. The judiciary has jealously safeguarded this right. Article 12 (1) of the Constitution of Sri Lanka reiterates this principle by stating that all persons are equal before the law and are entitled to equal protection of the law.

53. These provisions are further strengthened by constitutional provisions which safeguard the independence of the judiciary and legal aid laws. Articles 7-10 of the Constitution, dealing with security of tenure, salaries and disciplinary control contain elaborate provisions to ensure the independence of the judiciary. The Legal Aid Law No. 27 of 1978 provides for the grant of legal assistance to deserving persons and for that purpose has established the Legal Aid Commission and the Legal Aid Fund.

The right to security of person and protection by the State

54. The right to security of person is guaranteed by several provisions of the Constitution and by ordinary law.

55. Article 11 of the Constitution states that "no person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment". The fundamental right to protection from torture cannot be abridged, restricted or denied under any circumstance. Furthermore, every person (citizens and non-citizens alike) resident in Sri Lanka is entitled to protection from torture. Article 11 is an entrenched article. Thus, an amendment to it would require not only a two-thirds majority, but would also have to be affirmed by the people at a referendum.

56. Sri Lanka acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 3 January 1994. The Convention entered into force for Sri Lanka on 2 February 1994. Enabling legislation to give effect to Sri Lanka's obligations under the Convention, was passed by Parliament on 25 November 1994. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act No. 22 of 1994 strengthened considerably the existing legal framework in which torture was prohibited.

57. The Act designates and defines torture as a specific crime and vests the High Court of Sri Lanka with jurisdiction over offences of torture committed in and outside Sri Lanka. It also amends the Extradition Law to provide for an "extradite or prosecute" regime as envisaged in the Convention. Procedure relating to investigations, taking a suspect into custody, prosecution, etc. will continue to be governed by the general penal law of the country.

58. Article 13 (1) of the Constitution provides that no person shall be arrested except according to the procedure established by law and that any person arrested will be informed of the reason for the arrest. Article 13 (2) states that every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the judge of the nearest competent court according to procedure established by law, and shall not be further detained or deprived of personal liberty except upon and in terms of the order of such judge made in accordance with procedure established by law.

59. Under the Criminal Procedure Code Act No. 15 of 1979, a person arrested has to be produced before a magistrate within 24 hours. Such person cannot be further detained or held in custody except upon and in terms of the order of such judge. Thus, an order for remand must necessarily be made by a magistrate and it is the duty of the magistrate to consider independently whether the person arrested should be released on bail or whether he should be remanded to the custody of the superintendent of a prison, pending trial. The Law recognizes that a person may not be kept indefinitely in custody pending trial. Where proceedings are not instituted within a period of three months from the date of arrest, the suspect must be released on bail.

60. Arrest and detention are also possible in Sri Lanka under the Emergency Regulations (gazette 873/12 of 4 November 1994 as amended) and the Prevention of Terrorism Act No. 48 of 1979 (as amended). These laws are considered necessary to allow the security forces to deal with the exigencies of the current security situation in the country and for the preservation of public order

and the maintenance of supplies and services essential to the life of the community. These laws are constantly reviewed and maximum precautions are taken to ensure the physical and mental well-being of detainees.

61. In terms of Regulation 17 of the Emergency Regulations (ERs), the Secretary, Ministry of Defence can order the detention of a person for a period not exceeding three months at a time up to a maximum period of one year. In such a case he must be satisfied on the basis of material submitted to him that such an order is necessary.

62. The Secretary's order under Emergency Regulation 17 cannot be arbitrary or mechanical and can be questioned on grounds of reasonableness. The Secretary must be able to state that he himself formed an opinion objectively by means of sufficient evidence and that this opinion is one which he formed as a reasonable person. Bold assertions are insufficient. His decision must be reviewed every three months to ensure that reasonable grounds exist for continued detention.

63. Regulation 18 (1) empowers a police officer or a member of the armed forces to arrest any person who has committed or who is committing any offence under the ERs. A person so arrested can be kept in custody for a period not exceeding 21 days and, if the arrest was made in the Northern or the Eastern provinces, for a period not exceeding 60 days. At the end of such period he must be released unless such person is detained under Regulation 17 or is produced before a court of law.

64. In terms of section 6 (1) of the Prevention of Terrorism Act (PTA), any police officer not below the rank of superintendent or any other police officer not below the rank of sub-inspector, who has been authorized in writing, may arrest without a warrant a person connected with any offence set out in section 2 of the PTA.

65. Such a person can be kept in custody for a period not exceeding 72 hours unless a detention order is made under the section 9 of the Act. A detention order under section 9 is for a period of three months at the first instance. Such period can be extended from time to time for periods not exceeding three months at a time for a maximum period of 18 months.

66. Any person aggrieved by a detention order under the ERs or the PTA can appeal to the Advisory Board under the Emergency Regulations (Regulation 17 (5) - 17 (11)) or the Advisory Committee established under the PTA to have the detention order reviewed (sect. 13 (1) of the PTA).

67. Furthermore, the Government through the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects also works towards the expeditious release of those taken into custody on suspicion of subversive activity under ERs and the PTA. The Committee has the power to recommend the release or rehabilitation of suspects in the following circumstances:

(a) Where a police investigation is completed and does not reveal sufficient evidence to forward the case to the Attorney-General's Department for indictment, the Committee receives the police report and recommends release or rehabilitation;

(b) Where findings of the police investigation are forwarded to the Attorney-General for indictment but where the Attorney-General judges that the suspect will not be indicted due to insufficient evidence, the Committee considers these cases individually and recommends release and rehabilitation;

(c) Where representations are made to the President, Secretary/Defence or Minister of Defence to review a detention order, the Committee calls for a report and recommends release or rehabilitation;

(d) The Committee may on its own initiative review a detention order where it is brought to the notice of the Committee, e.g. by the media, that a certain detention order is not based on sufficient evidence or is not justifiable.

68. The Committee has the power to conduct an independent investigation by calling for statements or by interviewing the detainee and the police officer/army personnel concerned and to make a judgement based on the evidence available. Whilst the Committee has the power to inquire and to dispose of direct complaints made to it of unjustifiable arrest and detention, it also has ultimate authority over the decisions of the Advisory Board under the ERs and the Advisory Committee under the PTA.

69. Arrest and detention both under normal laws, the Emergency Regulations and the PTA can also be challenged by way of a fundamental rights petition under article 13 of the Constitution. It needs also to be emphasized that the procedure followed in respect of persons detained and indicted under ERs and the PTA, i.e. regarding investigations, filing of cases in the courts, leading evidence, etc., is the normal procedure applicable in any criminal case. Thus, once a person is detained under ERs and the PTA, the police are under a duty to conduct an investigation into the case and forward their findings to the Attorney-General's Department. Where there is sufficient evidence, the suspect has to be indicted in the ordinary courts according to procedure established by law. Every such detainee has the right to legal counsel.

70. A new High Court in Colombo began sitting on 15 August 1997 and a new High Court in Vavuniya began sitting on 11 September 1997. This was in order to expedite the hearing of cases under the Prevention of Terrorism Act and the Emergency Regulations, thereby reducing the time spent in detention by persons detained under these laws.

Safeguards under the ERs and the PTA

71. The right to freedom from arbitrary arrest and detention and the right to freedom from torture are sought to be ensured under the Emergency Regulations and the Prevention of Terrorism Act through a multiplicity of safeguards, which have been built into these laws. Furthermore, the Human Rights Commission (HRC) of Sri Lanka established in 1997, has been specifically mandated to monitor the welfare of detainees. The Human Rights Task Force (HRTF), which functioned during the period 1991-1997, formerly carried out this task.

72. Monitoring of the welfare of persons detained without judicial order has now become part of the permanent law of the land (sect. 28 (1) - (3) of the HRC Act). On 7 September 1997 the President reissued directions to the armed forces and the police. These directions were identical to those issued under the Regulations establishing the HRTF. This was to ensure that the armed forces and the police cooperate with and assist the new Commission so as to enable it to continue the work commenced by the HRTF, efficiently and without interruption.

Safeguards against arbitrary arrest, detention and torture under the Emergency Regulations and the PTA

73. The arresting officer must issue a document informing the spouse, father, mother or other close relative of the detainee of the arrest. The document must contain the name and rank of the arresting officer, the time and date of arrest and the place at which the person will be detained or held in custody (Regulation 18 (8)).

74. Every arresting officer must report an arrest made under Regulation 18 within 24 hours to a superior officer (Regulation 18 (7)).

75. Every place of detention under the Emergency Regulations has to be approved by the Secretary, Ministry of Defence and be published in the Government Gazette. The existence and the address of places of detention have to be notified to the magistrate within whose jurisdiction such places are located. It is a punishable offence to detain a person in any place other than in a place authorized by the Secretary (Regulation 19 (4) and 19 (8)).

76. Every officer in charge of a detention camp is obliged to furnish the magistrate every fortnight a list of detainees held by him. The Magistrate is obliged to post this list on the court notice board and to visit the camp every month (Regulation 19 (6)).

Presidential Directives issued to the armed forces and police to enable the HRC to perform its powers, functions and duties

77. Every member of the armed forces and the police shall assist and facilitate the HRC and any person authorized by the HRC in the exercise of its powers, duties and functions and also ensure that the fundamental rights of a person arrested or detained are respected.

78. No person shall be arrested or detained under any ERs or the PTA except in accordance with the law and proper procedure and by a person who is authorized by law to make such arrest or order such detention.

79. At or about the time of the arrest, or if it is not possible in the circumstances, immediately thereafter:

(a) The person making the arrest must identify himself to the person arrested or any relative or friend of such person upon inquiry being made, by name and rank;

(b) Every person arrested or detained must be informed of the reason for the arrest;

(c) The person making the arrest or detention shall issue to the spouse, father, mother or any other close relation a document in a form specified by the Secretary, Ministry of Defence, acknowledging the fact of arrest. The name and rank of the arresting officer, the time and date of arrest and the place at which the person will be detained shall also be specified. It shall be the duty of the holder of such document to return the same to or produce the same before the appropriate authority when the person so arrested or detained is released from custody, provided that, where any person is taken into custody and it is not possible to issue a document as set out above, it shall be the duty of the arresting officer, if such officer is a police officer, to make an entry in the Information Book giving reasons as to why it is not possible to so issue a document, and if the arresting officer is a member of the armed forces to report the reasons why it is not possible to issue a document to the officer in charge of the police station, whose duty it shall be to make an entry of such fact along with the reasons in the Information Book;

(d) The person arrested should be afforded means of communicating with a relative or friend to enable his whereabouts being known to its family.

80. When a child under 12 years or a woman is sought to be arrested or detained, a person of their choice should be allowed to accompany them to the place of questioning. As far as possible a child or woman should be placed in the custody of a women's unit of the armed forces or the police force or in the custody of another woman military or police officer.

81. A statement of a person arrested or detained should be recorded in the language of that person's choice and he should be asked to sign the statement. A person who desires to make a statement in his or her own handwriting should be permitted to do so.

82. The members of the HRC or any person authorized by it should be permitted access to the person arrested or detained and should be permitted to enter at any time any place of detention, police station or any other place in which such person is detained in custody or confined.

83. Every officer who makes an arrest or detention, as the case may be, shall forthwith, and in any case not later than 48 hours from the time of such arrest or detention, inform the HRC or any person specially authorized by the HRC of such arrest or detention and the place at which the person so arrested or detained is being held in custody.

External Monitoring of the Welfare of Detainees

84. The International Committee of the Red Cross (ICRC) also carries out monitoring of the conditions of detainees. The ICRC is allowed full and free access to all places of detention. The ICRC visits places of detention on a regular basis and interviews detainees without being subject to surveillance by the prison authorities. They monitor conditions of detention, focusing on the way detainees are treated in physical and psychological terms. They check the detainees' state of health and arrange for the exchange of messages with their families. On the basis of these visits and their findings, the ICRC is able to make oral and written representations to the Government where necessary.

Political rights

85. Sri Lanka has been a functioning parliamentary democracy since its independence in 1948. All successive Governments have been elected by popular and universal adult franchise, which was introduced to Sri Lanka in 1931, even before the country gained independence. Electoral accountability and democratic governance have thus become an integral part of Sri Lankan society.

86. Sri Lanka's third to sixth periodic reports set out in detail the rights of its citizens to participate in elections, to vote and to stand for election on the basis of universal and equal suffrage as well as the rights relating to participation in Government. To ensure greater participation of minority communities in Government and as a solution to the crisis faced by the country, a political package presenting the most extensive proposals for the devolution of power ever to be presented in Sri Lanka was put forward by the Government in August 1995.

87. The proposed devolution package has as its objective the further decentralization of the political process, providing people at different levels with access to power and accommodation of pluralism in the system of government. The recognition of the need for a political solution to the ethnic question is not unknown in Sri Lanka's history. Past attempts at decentralization and devolution culminated in the thirteenth amendment to the Constitution and the establishment of Provincial Councils (PCs) in 1988. While the establishment of Provincial Councils is a landmark in the political history of the country, the law creating PCs had many weaknesses. The fact of its inclusion in a highly centralized constitution and the existence of a concurrent list created contradictions and tensions which were inimical to its proper implementation. The elimination of the Concurrent List in the present proposals is an important development.

88. The present proposals put forward by the Government address the grievances of all communities and represent the most advanced proposals for devolution presented in Sri Lanka so far. They are not a novel or alien conception but represent continuity with previous proposals. They have drawn inspiration from the more practical suggestions that have emerged over the past 40 years and on their successful implementation would enable a substantial degree of devolution of power within the framework of a united Sri Lanka. It is hoped that these proposals will circumvent the shortcomings of the earlier attempts at devolution and exclude those that are unworkable.

The right to leave and to return to one's country

89. Article 14 (1) (h) and (i) of the Constitution guarantees the freedom of movement and the freedom to return to Sri Lanka. The right to leave the country is not expressly mentioned in the Constitution but has been incorporated in the new draft constitution.

90. No person is denied the right to leave the country. Every citizen, without distinction, is entitled to obtain a passport for this purpose. With the progressive liberalization of the economy and the deregulation of exchange controls and of import and export activity since 1977, foreign travel has registered significant growth. A large number of Sri Lankans have left the country in recent years for Europe and to North America as residents and asylum-seekers and to the Middle East on employment.

91. In 1998 a district court in the Netherlands ruled that the positive human rights situation in Sri Lanka did not warrant the granting of political asylum in the Netherlands. It also went on to say that the situation in Sri Lanka was conducive for the Tamils whose applications for asylum had been rejected to be sent back to Sri Lanka. In fact, Sri Lanka has concluded bilateral arrangements for the return of rejected asylum-seekers, with Switzerland, the Netherlands, Denmark, the United Kingdom and Norway. Similar arrangements are expected to be concluded with several other European countries.

The right to nationality

92. The right to nationality of Indian estate workers, who were brought to Sri Lanka during colonial rule and who were not recognized either as citizens of Sri Lanka or India, has received the attention of both Governments since 1964.

93. Under the Srima-Shasthri Pact of 1964 (as amended in 1974), of the estimated 975,000 estate workers of Indian origin who were living in Sri Lanka in 1964, 375,000 persons were to be granted Sri Lankan citizenship and 600,000 were to be granted Indian citizenship. The pact was to be implemented within 15 years. Repatriation and granting of citizenship were to keep pace with each other. Owing to a variety of reasons, including opposition from various quarters and logistical problems involved in the repatriation of such large numbers, progress in implementation had been slow. Implementation itself commenced on 1 May 1968 with the two Governments inviting applications for citizenship of the respective countries.

94. By the end of 1985, only 506,000 persons had applied for Indian citizenship. The Sri Lankan Government then made a decision to grant Sri Lankan citizenship to the 94,000 persons who had not applied for Indian citizenship, making a total of 469,000 persons to be granted Sri Lankan citizenship. An Act to provide for the Grant of the Status of Sri Lanka Citizen to Certain Stateless Persons of Indian Origin was passed in Parliament in January 1986. Sri Lankan citizenship was also to be granted to any persons over and above the 975,000 persons of Indian origin lawfully resident in Sri Lanka.

95. The Government of Sri Lanka fully implemented its obligations in November 1988. All 469,000 persons have been either granted citizenship under the agreement or have automatically received citizenship under Act No. 39 of 1988.

96. Although Sri Lanka has fulfilled all its obligations under the Srima-Shasthri Pact, the problem of stateless persons persists owing to the fact that a large number of the persons who were to be repatriated to India still remain in Sri Lanka. As at 1990, of 421,973 persons who were registered as Indian citizens only 337,464 had been repatriated to India, i.e. 84,509 persons registered as Indian citizens and issued with passports and their offspring still remain in Sri Lanka. The other 84,027 have applied to the Indian High Commission for registration and are still awaiting registration. Although many of these persons are no longer alive they have left behind children and grandchildren, most of whom have no contact or ties with India and who are thus unwilling to leave.

97. The citizenship problems of plantation workers of Indian origin are likely to be solved with the enactment of the new constitution. The new draft constitution states that any person permanently resident in Sri Lanka for six years before its promulgation will get citizenship.

Other civil rights

The right to marriage and choice of spouse

98. Roman Dutch law is the source and foundation of the laws governing marriage in Sri Lanka. English law principles have also contributed to the origin and growth of certain aspects of the law of persons. In addition, the personal laws, namely Kandyan law (applicable to certain regions of the country), Thesawalamai (applicable to the Jaffna peninsula) and Muslim law (applicable to those belonging to the Islamic faith), applicable in Sri Lanka have required a modification of Roman Dutch and English law principles in order to ensure that the law is developed in a manner suitable to the diverse ethnic structure prevalent in the legal system. The requirements for a valid marriage in Sri Lanka are set out in the Marriage Registration Ordinance No. 19 of 1907. This Ordinance expressly declares that it does not apply to marriages contracted under Kandyan law or Muslim law. Thus, apart from the Marriage Registration Ordinance, there are three types of customary marriages, which are recognized by statute (i.e. Kandyan Marriage and Divorce Act No. 44 of 1952, Thesawalamai Ordinance No. 5 of 1869 and Muslim Marriage and Divorce Act No. 13 of 1951). Nevertheless, due to the ethnic diversity of society, Sri Lankan courts recognize the validity of marriages contracted by the performance of customary laws and practices. The court is required to ascertain both the essentials of a valid marriage in the community to which the parties belong and that the rituals were actually carried out. However, protection conferred on registered marriages under the statue is denied to marriages solemnized outside the scope of the statute.

99. The minimum age of marriage under the general law was 12 years for girls and 16 years for boys. The difference has been rectified and the marriageable age was raised to 18 years for both sexes by the Marriage Registration (Amendment) Ordinance of 1995. The customary marriageable age under the Kandyan law was also raised to 18 years under the Kandyan Marriage and Divorce (Amendment) Act of 1995. However, there is no minimum age of marriage under Muslim law, which merely confers on a Kazi the right to exercise some control over marriages to be solemnized where the bride is under the age of 12 years.

100. Therefore, under the general law of the land, every male and female who has attained the age of 18 is entitled to contract a marriage with a person of their choice. There are no restrictions against interracial or inter-religious marriages. Under the Muslim personal law, however (which is applicable to persons professing the Islamic faith), a Muslim woman cannot validly marry a non-Muslim man and Muslim man cannot validly marry a woman whose religion is not divinely revealed and does not have a book of faith. Both Muslim men and women can validly marry a non-Muslim under the general law of the land. The general law in matters relating to marriage and divorce and not the Muslim law will thereafter govern them.

The right to own property alone as well as in association with others

101. The right to own property alone as well as in association with others is not recognized as a fundamental right under the Constitution although every citizen is entitled to acquire, enjoy and dispose of property under the ordinary law. While the State has the power to acquire land for purposes laid down in the Land Acquisition Act No. 9 of 1950 (as amended). Such acquisitions are subject to the payment of compensation.

102. This right has, however, been incorporated in the draft constitution. Article 21 of the draft constitution, while recognizing the right of every citizen to own property, goes on to state that no person shall be deprived of his property except according to procedure established by law. It further states that no property is to be compulsorily acquired or requisitioned except for a public purpose or for reasons of public utility and by an authority of law which provides for the payment of fair compensation.

The right to freedom of thought, conscience and religion

103. Article 10 of the Constitution guarantees the right to freedom of thought, conscience and religion. Article 14 (1) (e) guarantees the right to manifest one's religious beliefs either in public or in private, and by oneself or in association with others. There can be no derogation from article 10. It is also an entrenched clause in the Constitution and thus an amendment of this article would need not only a two-thirds majority in Parliament but also a referendum. Article 14 (1) (e) can, however, be restricted in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others (art. 15 (7)).

104. In a decision by the Supreme Court in February 1997, the Court held that a bill to establish a Broadcasting Authority with wide powers to control the contents of broadcasting and television programmes was inconsistent with the right to freedom of thought guaranteed by the Constitution.

The right to freedom of opinion and expression

105. Article 14 (1) (a) of the Constitution recognizes the right to freedom of speech and expression, including publication. This right may, however, be restricted in the interest of racial and religious harmony, or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence (art. 15 (2)). The sixth amendment to the Constitution also prohibits the support, promotion, encouragement or advocacy of a separate State within the territory of Sri Lanka by any individual or group of persons.

106. The Supreme Court, in two important decisions delivered in 1997, upheld the right to freedom of expression. In February 1997, the Supreme Court, in the case Asoka Gunawardena and Ponnamperuma Aarachchige v. S.C.W. Pathirana and others (SC Appn. 519/95), gave judgement in favour of two supporters of the United National Party (UNP), who were arrested and detained for possessing and circulating a pamphlet critical of the Government. It further ordered the State to pay an unprecedented sum of Rs 70,000, including costs, to each of the petitioners.

107. In its judgement, the Supreme Court quoted from Ekanayake v. Herath Banda (SC Appn. 25/91, SCM 18.12.91) to state that:

> "The expression of views which may be unpopular, obnoxious, distasteful or wrong is nevertheless within the ambit of free speech and expression, provided of course there is no advocacy of or incitement to violence or other illegal conduct ... for dissent is inextricably woven into the fabric of democracy."

108. In February 1997, in the Sri Lanka Broadcasting Bill case (S.C. Appn. No. 1-15/97), the Court held that article 14 (1) (a) needs breathing space and that a governmental regulation that may be accepted as tolerable must be drawn with narrow specificity. It went on to say that the law must be reasonably clear to prevent arbitrary action.

109. The constitutional guarantee of the right to freedom of expression was sought to be strengthened by the media policy adopted by the Government in October 1994. The policy recognizes the right of all electronic media to gather and disseminate news and grants media personnel in the State sector the freedom to decide the content of news bulletins and news feature programmes. It ensures that the State-owned media would not be used for partisan political propaganda. It also encourages the State media to give a place to non-governmental opinion, be it of opposition political parties, or professional or community organizations, in the presentation of news and in the content of other programmes of social relevance.

110. Directed by the media policy, in December 1994 the Government established four committees to look into the following:

- The reform of laws affecting media freedom;
- Broadening the ownership base of the Associated Newspapers of Ceylon Limited (ANCL);
- The establishment of a National Media Institute to enhance professional standards and provide training facilities for journalists; and
- Improving economic conditions and the status of journalists.

111. The report of the Committee on Legal Reform, which was submitted in May 1996, contains a comprehensive list of proposals covering constitutional and legislative reforms relating to the freedom of expression. Proposals for strengthening the constitutional safeguard of the freedom of expression were referred to the Parliamentary Select Committee (PSC) and have already been incorporated in the draft constitution. Suggestions for the amendment of ordinary legislation having an impact on the freedom of expression such as the Penal Code provisions on sedition, the Press Council Law, the Law on Parliamentary Privilege, etc., have been referred to the Law Commission.

112. The proposals for the establishment of an independent National Media Institute received Cabinet approval in August 1996. Until the legislation to give effect to the proposal is passed by Parliament, a media training institute has been set up under the existing Press Council Act to

conduct, without further delay, skill-development programmes. In response to the suggestions made by the committee on the working conditions of journalists, the Sri Lanka Insurance Corporation in November 1996 launched a new insurance scheme for journalists. The President has also given an undertaking to investigate the provision of housing and equipment for journalists.

113. Government's plans to divest ANCL of State ownership has been met with much opposition by the workers and has been shelved for the present.

114. The number of television and radio stations in Sri Lanka has increased considerably over the past years and this reflects the diverse nature of society in the country. The media industry is no longer dominated by the State and a number of private companies are playing a prominent role in providing viewers and listeners with a variety of programmes and a number of different perspectives. Programmes are presented in all three languages. The Government, which earlier monopolized the transmission of news, has permitted private radio and television stations to compile their own news bulletins. The print medium still remains the most popular and widely used means for dissemination of information. Private and state newspapers are published in Sinhala, Tamil and English.

115. It is envisaged that these measures will ensure a media culture which will accommodate diverse opinions and ideas and protect and promote the right to freedom of expression of all ethnic groups in the country.

The right to freedom of peaceful assembly and association

116. Article 14 (1) (b) and (c) of the Constitution guarantees freedom of peaceful assembly and the freedom of association. These rights can be restricted on grounds recognized by the Constitution such as in the interest of racial and religious harmony and the national economy (see arts. 15 (3), (4) and (7)).

117. In Sri Lanka, public meetings and processions are a traditional means of expression of political opinion, protest and dissemination of ideas.

Economic, social and cultural rights

118. In Sri Lanka important economic and social measures have been sustained which have ensured a high quality of life for all its citizens. These include the availability of basic food items, educational facilities, medical services and health care, housing and other essentials. State policies have also helped to reduce income disparities between different economic sectors and among different social groups and special programmes such as Janasaviya and Samurdhi have contributed towards the reduction of poverty. This has been made possible through the allocation of substantial amounts of financial resources continuously from the government budget to social sectors in the post-independence period as well by the enactment of welfare legislation.

119. Thus, despite being a developing country with a per capita income of around US$ 800 (1997), Sri Lanka boasts significant and impressive accomplishments in the social front as seen by the following indicators.

Sri Lanka - Human Development Profile

Life expectancy at birth	73 years
Access to health 1993	93%
Access to safe water 1993	60%
Access to sanitation 1995	61%
Daily per capita supply of calories 1996	2,263
Adult literacy rate 1997	90.7%
Combined enrolment ratio 1997	66%
Real GDP per capita 1997	PPP$ 2,490

Source: UNDP, Human Development Report, 1999.

120. While the Government's policies and programmes for the protection and promotion of economic, social and cultural rights have been implemented without any discrimination based on race, there are variations in the enjoyment of these rights from district to district and between certain communities and groups. Some sections of the population have less access to one or more of these rights, for example, the urban poor people living in remote areas of the dry zone, plantation workers, etc. Thus the present report will give a general outline of the access to the rights, mentioned under article 5 (e) of the Covenant. This report, in its concluding section, has also identified and focused on certain minority groups who are disadvantaged in relation to some of the rights mentioned in article 5 (e), i.e. persons living in the North, displaced persons, plantation workers who are of Indian origin and the small number of indigenous people in Sri Lanka.

The right to work

121. The Constitution does not guarantee a right to employment to any person, but the Directive Principles of State Policy and Fundamental Duties recognize a commitment by the State towards increasing avenues of employment. Where employment is available, whether in the public or private sector, the Constitution guarantees equality of opportunity without discrimination, subject to the right of the employer to determine suitable and acceptable criteria for eligibility and selection

122. Access to the public service is open to all citizens on the basis of open and fair competition. There are no barriers based on race. Members of all communities hold high offices in the judiciary, the executive and the legislature. However, with a view to ensuring equal access to employment to all communities, recruitment to the public service since 1990 has been on the basis of the ethnic ratio (see Sri Lanka' s third to sixth periodic report). Protective labour laws, which have a long history in Sri Lanka, are also equally applicable to all citizens.

123. Self-employment, as distinct from employment by another, is a recognized right. Article 14 (1) (g) of the Constitution guarantees to a citizen "the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise".

124. A number of statutes regulate the terms and conditions relating to the contractual relationship between employer and employee in such matters as minimum wages and overtime payments, holidays and leave, health and welfare facilities, termination of service, retrenchment, reinstatement, etc. Although the parties may agree upon the terms and conditions of employment, a contract of employment is no longer conclusive, but subject to statute law.

The right to form and join a trade union

125. Sri Lanka has a strong tradition of trade unionism - a tradition which is inextricably linked with the significant role played by trade unions in the independence movement of Sri Lanka. Indeed, the beginnings of the working class movement in Sri Lanka can be traced as far back as 1919 when some of the earliest trade unions were formed. The right to form and join a trade union was given statutory recognition with the enactment of the Trade Union Ordinance of 1935.

126. The 1978 Constitution elevated the right to form and join a trade union to the status of a constitutionally guaranteed fundamental right which is justifiable before the highest court of the land. Article 14 (1) (c) guarantees the right to freedom of association and article 14 (1) (d) guarantees to every citizen the freedom to form and join a trade union. The right may be restricted in circumstances spelt out in the constitution.

127. The Supreme Court has made the following observation on the right of membership in a trade union:

> "The right of all employees (except a few categories) to voluntarily form unions is part of the law of this land. It exists both in the constitution and statute form. No employer can take away this statutory right by imposing a term to the contrary in a contract of employment ...
>
> "The right of association is of great value and has varied scope. It embraces associations, which are political, social, and economic, and includes even such entities as clubs and societies. But trade unions enjoy pride of place. They play a significant role as an integral part of the democratic structure of Government, and are part of the contemporary political and social landscape.
>
> "Restraints or limitations on it would be permitted only in the most exceptional circumstances and that could only be done by law in the interests of national security or in the interests of law and order etc."

128. In terms of the Trade Union Ordinance No. 14 of 1935 (as amended) any association or combination of workmen or employers, whether temporary or permanent, having one of the objectives mentioned below are entitled to form and be a member of a trade union, i.e.

- The regulation of relations between workmen and employers or between workmen and workmen or between employers; or
- The imposing of restrictive conditions on the conduct of any trade or business; or
- The representation of either workmen or employers in trade disputes; or
- The promotion or organization or financing of strikes or lockouts in any trade or industry or the provision of pay or other benefits for its members during a strike or lockout, and includes any federation of two or more trade unions.

129. A workman is defined very widely in the Act as a person who has entered into or works under a contract with an employer in any capacity whether the contract is expressed or implied, oral or in writing, and whether it is a contract of service or apprenticeship or a contract personally to execute any work or labour and includes any person ordinarily employed under such contract, whether such person is or is not in employment at any particular time. The Act also contains provisions intended to create a legal environment for trade unions to function freely in the attainment of their objectives.

130. The Act, however, prohibits judicial officers, members of the armed forces, police officers, prison officers and members of the agricultural corps established under the Agricultural Corps Ordinance from forming into trade unions.

131. The law governing the formation and operation of trade unions does not make any distinctions on the basis of race.

The right to housing

132. Government intervention in the housing sector has a long history in Sri Lanka. The more important of these interventions include: regulatory controls and development work by the decentralized administration; rent control measures, first introduced in the 1940s, ensuring access to housing even of low income groups; action taken under the ceiling on housing property law; government intervention in the housing finance market; institutional development and house construction on a direct construction basis. A separate Ministry of Housing was created in 1953. The Housing Loans Board was established in 1949 to give housing loans to individuals and others. The National Housing Department was established in 1954 to implement programmes such as housing loans, construction of rental and rent-purchase housing, etc. The 1980s saw the implementation of three major public housing programmes, i.e. the Hundred Thousand Houses Programme (1978-1983), the Million Houses Programme (1984-1989) and the 1.5 Million Houses Programme (1990-1994). The Million Houses Programme and the 1.5 Million Houses Programme mostly concentrated on the improvement of the existing housing stock rather than on the construction of new houses.

133. While the Government, through the Ministry and departments set up specifically for this purpose, has undertaken the most effort in this field, encouragement has been given to the private and non-governmental sector to participate in the strategy and endeavours on provision of shelter and enhancement of living standards. This strategy has enabled the Government to foster people' s participation through self-help schemes, drawing upon indigenous capabilities while minimizing the dependence on State patronage for the provision of resources.

134. In May 1996, the total number of housing units in the country was estimated at 3.9 million. The average annual demand for housing units in the country was estimated at 70,000. There are no statistics relating to the distribution of the housing stock according to ethnicity. Sri Lanka' s human settlements are categorized by the rural, urban and plantation sector.

Sector	Population (million)	As a %	No. of housing units	As a %
Urban	3.97	22.0	706 000	18.0
Rural	12.64	70.0	2 891 060	74.0
Plantation	1.44	8.0	301 340	8.0
Total	18.05	100	3 898 400	100

135. An analysis of this data leads to the conclusion that there is a severe shortage of housing in the urban sector. In the rural sector the need is for upgrading of existing housing and replacement of some units. In the rural areas only about 41.88 per cent of the housing stock is reported to be permanent; 51.65 per cent are semi-permanent and 6.47 per cent are improvised units. The problem of housing is, however, most acute in the estate sector.

136. In 1996, the government policy towards the housing sector was geared to meet the expanding demand for housing, particularly in the urban sector, and for improving the quality of the substandard segment of the housing stock. The main thrust of the housing development strategy was to promote self-help initiatives and mobilize the potential of private developers. The public sector housing programme concentrated on two areas: first, extending assistance to low income families to build new houses or upgrade their own houses, based on the enabling approach, and second, undertaking special housing projects to relocate slum and shanty squatters, thereby releasing prime lands for commercial purposes. In order to facilitate the private sector housing development activities, the need for strengthening existing housing finance systems is recognized and various new housing development programmes were introduced during the year under review. Initial action has been taken to elevate the Housing Development and Finance Corporation (HDFC) Ltd. into a fully fledged financial institution with legal powers to deal in the capital market with a view to drawing resources for the housing sector.

137. The following major housing projects were in operation in 1996:

Public sector housing programme

Subprogramme	Units commenced		Units commenced		Units commenced	
	1995	1996	1995	1996	1995	1996
Janaudana programme	11 229	15 599	1 601	14 061	105	230
Sevana Housing Grant programme	-	15 572	-	7 315	-	78
Rural Housing programme	12 492	2 086	4 310	5 791	62	52
Urban Housing programme	1 535	342	389	971	11	11
Estate Housing programme	1 410	631	48	792	7	10
Direct Construction programme	615	208	275	459	144	133
Coastline Housing programme	192	0	48	192	11	14
Disaster Housing programme	-	186	-	-	-	1
Total	27 473	34 624	6 671	29 606	340	529

Source: Central Bank Report, 1996.

138. In addition to the housing loan programmes implemented by the State agencies, housing loans were disbursed throughout the country by the two State banks (The Bank of Ceylon and The People's Bank), the National Savings Bank, the State Mortgage and Investment Bank, the National Development Bank, the Housing Development Finance Corporation, the Insurance Corporation of Sri Lanka and the Cooperative Rural Banks.

The right to public health, medical care, social services and social security

139. Sri Lanka has a wide network of health services in terms of geographical and population coverage. It therefore has a long history of maintaining a reasonably high standard of health facilities through the provision of free medical care, free hospital care and free clinical facilities. The emphasis has been on both preventive and curative care. A share of 1.6 per cent of GDP was spent on the provision of health facilities in 1996. The current health status of the population is a reflection of the access to health services. Life expectancy at birth is 69.5 years for males and 74.2 years for females (1991). The crude birth rate is 20.7 per 1,000 (1992). The crude death rate is 5.8 per 1,000 (1995). Maternal mortality is 3.6 per 10,000 live births (1995) and infant mortality is 18.2 per 10,000 (1992).

140. The network of curative institutions in Sri Lanka ranges from central dispensaries providing out-patient care to sophisticated teaching hospitals with specialized services. The distinction between hospitals is basically made on the basis of the size and range of facilities

provided. There are three levels of curative care institutions. The central dispensaries, maternity homes, rural hospitals, peripheral units and district hospitals are primary health-care institutions. The base hospitals and provincial hospitals are secondary care institutions, and the teaching hospitals and the special hospitals are tertiary care institutions. Patients can seek care in any medical institution of their choice. In 1995, there were 47,665 beds for in-patient care (excluding Jaffna, Kilinochchi, Mullaitivu and Ampara districts) which amounted to a ratio of 2.9 per 1,000 population.

141. A total of 4,627 medical officers (including specialists), 421 dental surgeons, 1,376 registered or assistant medical officers, 13,403 staff nurses, and 4,383 public health midwives were available in 1995. Of a total of 4,690 paramedical personnel available in 1995, 2,288 were hospital midwives, 627 pharmacists, 617 dispensers, 620 medical laboratory technicians, 245 radiographers and 175 physiotherapists. Of the 558 specialists available, 231 (41 per cent) were in the Colombo district.

142. There are variations in the health status of the population and the availability of health facilities and personnel from district to district. However, it must be noted that a basic principle of the Government's health policy is to ensure that health care is accessible on an equitable basis to all the citizens with emphasis on improving health-care facilities in relatively disadvantaged areas and for disadvantaged groups.

143. The competitive political system in existence since independence has been unusually responsive to the basic social and economic needs of the population. The bias in favour of welfare in the Government's policy has not been confined to health and education, but has included a host of other services such as food security. Even the economic infrastructure, and in particular public utilities, have been managed by the Government till very recent times. These have been carried on more as social programmes rather than commercial ventures.

144. The welfare orientation of State policies can be seen also in a wide range of social security and community welfare schemes operated under several ministries. The special welfare and community services offered by the Ministry of Social Services include national disaster relief and rehabilitation, protection and assistance to the aged, disabled and indigent. Probation and childcare services also form an important component of special welfare services. Thus, vulnerable groups who are not covered by formal social security programmes are looked after by a system of welfare and community services.

145. Finally, there are various social security laws and programmes covering workers in the organized sector in order to guarantee their purchasing power in the event of injury, disability, maternity, old age, etc. A workman's compensation scheme is in existence for those who suffer personal injury from accidents or occupational diseases in the course of employment. The Employment Provident Fund, the Employees Trust Fund, gratuity, pension and other schemes are available for the provision of social security for workers upon retirement. A retirement benefit scheme for farmers and fishermen in the unorganized sectors has also been established.

The right to education and training

146. Since the 1940s Sri Lanka has provided free education from the kindergarten to the university level, thereby providing equal educational opportunities for all its citizens. Sinhala and Tamil were made the mediums of instruction in the late 1950s. The free education system was further reinforced by several other policies which enabled poor children to participate in education. These include the free textbook scheme, the free midday meal scheme and the free school uniforms scheme. These measures, together with subsidized transport and financial assistance in the form of scholarships at secondary and higher education levels for all gifted students, have minimized the cost to parents of education. Government's expenditure on education is around 5 per cent of GNP.

147. At present, there is a network of schools spread throughout the country to provide primary and secondary education facilities to children of the schoolgoing age. In addition, there are institutions providing technical and vocational education at secondary level. There are 12 national universities and a number of technical institutes and professional colleges providing university-level education. In 1998, the country's student population stood at 4.3 million. There were 11,007 schools with a total teaching staff of 196,476. The coverage of general education was extensive with 1 school per every 6 sq. km. The pupil-teacher ratio was 22.

148. Despite these impressive statistics, regional imbalances in school facilities and poor quality and inadequacy of teaching continue to be problems in Sri Lanka. Despite high literacy rates, the available evidence suggests that the quality of education has been deteriorating over the years. With a view to addressing these problems, several foreign-funded projects are being implemented. A project called "Development of Schools by Divisions" (DSDP) was launched to improve facilities in 600 schools at divisional level. The Overseas Development Agency (ODA) assisted the Primary Education Development Project, which aims at improving the skills of primary-level students by undertaking a primary English-language project and mathematics project. Under the General Education Project (World Bank, International Development Association), 3,000 primary mathematics sets, 3,000 primary science sets and 2,000 radio sets were provided in 1996 for strengthening school infrastructure and promoting the quality of primary education. The Primary School Development Project assisted by the Swedish International Development Agency (SIDA), was geared with a view to developing selected small schools in underdeveloped areas. The Plantation Sector Education Development Project, funded by SIDA, aims at uplifting education in the plantation sector. With the objective of strengthening teacher education, it is expected that a new Teacher Education Development Project will be implemented with the assistance of the World Bank and the Asian Development Bank (ADB).

149. The opportunities for higher education and tertiary and vocational training are limited in Sri Lanka. Admission to universities is on the basis of merit but subject to district quotas, to enable students from educationally disadvantaged districts to attend university. The establishment of three new universities, in the recent past - Sabaragamuwa University (1996), Rajarata University (1996) and South Eastern University (1995) - has increased the total student intake by 1,250. However, from the total number of students who sit the Advanced Level exam

only a very small percentage receive the opportunity to enter university. In 1996, of the students who sat for the GCE Advance Level examination, 70,000 were eligible to enter university, but only 11,000 gained admission owing to the limited facilities available.

150. Keeping in mind the shortcomings discussed above, the Government is proposing to introduce reforms which will restructure the educational system of the country with a view to realizing certain national priorities and objectives.

The right to equal participation in cultural activities

151. Article 14 (1) (f) of the Constitution guarantees to every citizen the freedom, by himself or in association with others, to promote his/her own culture and to use his/her own language.

152. The minority Tamil and Muslim communities in Sri Lanka have every right to practise and enjoy their culture. Days of cultural and religious significance to the Tamils and Muslims are public holidays and celebrated at national level, with State patronage. The media promotes and reflects the pluralistic nature of culture in Sri Lanka. There is no discrimination against any ethnic group, as far as time or space is concerned, in the electronic and print media. The Sri Lanka Broadcasting Corporation has three distinct services catering for the Sinhala, Tamil and Muslim listeners. The Sri Lanka Rupavahini Corporation, the State television station, runs its programmes in Sinhala, Tamil and English. The State and private newspaper companies publish dailies and weeklies in all three languages.

153. Every effort is being made to maintain the identity of different ethnic groups. The programmes on radio and television and the space in newspapers are liberally made use of in furthering the interests of a pluralistic society. Tamil, the language of the Tamils, and also of the majority of Muslims, was made an official language in 1987, in recognition of the fact that language is an important symbol of culture.

154. The Muslims from colonial times have enjoyed the right to be governed by their personal laws, an important aspect of their culture, in matters pertaining to marriage, divorce and family affairs. Successive Governments have guaranteed the continued enjoyment of this right.

155. The State is also actively involved in the promotion of awareness and enjoyment of the cultural heritage of both the Tamil and Muslim communities. The Department of Hindu Religious and Cultural Affairs and the Department of Muslim Religious and Cultural Affairs are responsible for the promotion and the protection of these cultures. In pursuance of the objectives of the Department of Hindu Religious and Cultural Affairs, the following programmes are implemented:

Promotion of the Hindu religion;

Research on Hindu and Tamil culture;

Promotion of Tamil language and culture;

Education in Karnatic music and dance.

156. Incidental to these objectives and programmes, the Department administers the following institutions:

Hindu Cultural Fund;

Swami Vipulananda College of Music and Dance;

Pilgrim's Rest, Kataragama;

Hindu Cultural Hall, Batticaloa;

Research library.

157. The main objectives of the Department of Muslim Religious and Cultural Affairs is to promote and maintain religious and cultural activities of the Muslims within Sri Lanka and to implement the Wakf Act. The Department carries out the following activities:

Promote religious education and sociocultural activities;

Teach the Islamic way of life and culture by conducting functions at national and rural levels;

Celebrate the Holy Prophet Mohammed's birthday annually at national level;

Prepare the Muslim calendar and announce days of importance to the Muslims;

Publication of Muslim books;

Monitoring and developing religious institutions such as Quran madrasah, Arabic colleges, etc.;

Appointment/removal of trustees and financial assistance to mosques and other similar institutions.

158. Annually, Haj pilgrims are given assistance by the Government to make the pilgrimage to the Holy City of Mecca.

159. See the annex for additional information on article 5 (e).

Article 6

160. Discrimination based on race is prohibited by the Constitution of Sri Lanka. Article 12 (2) of the Constitution states that no citizen shall be discriminated against on grounds of race. As submitted in Sri Lanka's third to sixth periodic report, the violation of the fundamental right to equal treatment as well as of language rights recognized by the Constitution is justiciable before the highest court of the land.

The Supreme Court of Sri Lanka

161. The Supreme Court of Sri Lanka is vested with the sole and exclusive jurisdiction to hear and determine any question in relation to the infringement or the imminent infringement by executive or administrative action of any fundamental right.

162. In terms of articles 126 and 127 of the Constitution, a person who alleges that a fundamental right protected by the Constitution has been infringed or is about to be infringed by executive or administrative action may him/herself or by an attorney-at-law on his/her behalf, within one month, apply to the Supreme Court by way of a petition requesting relief or redress in respect of such infringement.

163. The Supreme Court is required to hear and finally dispose of any such petition within a period of two months upon the filing of such petition, and is vested with the power to grant relief or issue directives as it may deem just and equitable in the circumstances. The Court has held that its jurisdiction to grant relief is very wide and extensive.

164. The total number of fundamental rights cases filed before the Supreme Court has been increasing every year as people become more aware of their rights. However, there has only been a single petition alleging discrimination based on race in the Supreme Court since the adoption of the 1978 Constitution (see Sri Lanka's third-sixth report).

165. In addition to the jurisdiction of the Supreme Court in respect of fundamental rights, the following administrative mechanisms are also available to a person whose right to freedom from discrimination has been violated:

The National Human Rights Commission of Sri Lanka;

The Parliamentary Commissioner for Administration;

The Official Languages Commission.

In addition, the Government from time to time may appoint commissions to inquire into specific violations of fundamental rights where it is felt that the existing institutions are overburdened or are not equipped to investigate these violations adequately.

166. At present, the institutions described below are competent to provide protection against any acts of racial discrimination which violate a person's fundamental freedoms and human rights.

Human Rights Commission of Sri Lanka (HRC)

167. The Human Rights Commission (HRC), established by the Government in March 1997, is vested with monitoring, investigative and advisory powers in relation to human rights. It has been set up as a permanent national institution to investigate any infringement or imminent infringement of a fundamental right declared and recognized by the Constitution and to grant

appropriate relief. The powers of the Commission are wider than those of the Supreme Court and will complement the existing national framework for the protection of human rights. Unlike under the Constitution, there are no time limits for filing a complaint before the HRC. It is expected that the HRC will help to ease the burden of the Supreme Court.

168. In terms of section 14 of the Act, the Commission may on its own motion, or on a complaint made to it by an aggrieved person or group of persons, or a person acting on behalf of an aggrieved person, investigate an allegation of the infringement or imminent infringement of a fundamental right of such person and, where appropriate, provide for resolution through mediation and conciliation (sect. 15 (2)).

169. According to section 15 (3) of the Act, where an investigation conducted by the Commission discloses the infringement of a fundamental right, the Commission may recommend to the appropriate authorities that prosecution or other proceedings be instituted against the person or persons infringing such a fundamental right. Alternatively, it may refer the matter to any court having jurisdiction to hear and determine such matter. The Commission may also make such recommendations as it may think fit to the appropriate authority or person or persons concerned with a view to preventing or remedying such infringement or the continuation of such infringement.

170. The HRC Act contains provisions that all arrests and detentions under the Prevention of Terrorism Act (PTA) and Emergency Regulations (ERs) are to be reported to the Commission and also that the Commission be informed of the places of detention of such persons.

171. The Act envisages that the Commission may appoint subcommittees at provincial level to exercise certain powers which are delegated by the Commission. This would help create greater awareness of the availability of redress by the Commission and provide easier access to the Commission.

172. The Commission comprises five members, three Sinhalese, one Tamil and one Muslim. The President makes the appointments on the recommendation of the Prime Minister in consultation with the Speaker and the Leader of the Opposition. The opinion of Tamil and Muslim parties were sought on the composition of the Commission.

Ombudsman

173. The Constitution of Sri Lanka provides for the establishment of the Office of the Parliamentary Commissioner for Administration (Ombudsman), charged with the duty of investigating and reporting upon complaints or allegations of the infringement of fundamental rights and other injustices by public officers of public corporations, local authorities and other like institutions, in accordance with the law.

174. The Parliamentary Commissioner for Administration Act of 1981 established the office of the Parliamentary Commissioner for Administration (Ombudsman). The office of the Ombudsman provides all citizens with the right to be heard by an impartial and independent body in respect of any grievances regarding the infringement of a fundamental right or other

injustices committed by a public officer or an officer of a public corporation, local authorities or other like institutions. It was envisaged that this office would afford an expeditious and inexpensive means of redressing grievances of the public.

175. In order to make the office of the Ombudsman more effective, in 1994 the Government enacted the Parliamentary Commissioner of Administration (Amendment) Act, No. 26 of 1994. The amending legislation provides for complaints to be forwarded directly to the Ombudsman, and for him to report his determination directly to the head of the concerned institution and the relevant minister. Provision was also made for the Ombudsman to require the head of the concerned institution to notify him, within a specified time, of the measures taken to give effect to the recommendations of the Ombudsman. If no adequate or appropriate action has been taken within the specified time period, the Ombudsman will be required to forward his report both to the President and the Parliament. These requirements will provide a more effective human rights protection mechanism.

176. A large number of petitions have been received which did not fall within the ambit of the Ombudsman's powers. Through publicity about the functions and responsibilities of the Ombudsman, the public was made aware of the limitations of the duties of the Ombudsman. To create further awareness of the Ombudsman's responsibilities, a brochure has been prepared for free distribution among the public.

Official Languages Commission

177. Any person can make a complaint to the Official Languages Commission that his or her language rights under the Constitution have been violated. The Commission, on receiving such a complaint, has the duty under the Official Languages Commission Act No. 18 of 1991 to inquire into the complaint. If it finds that the complaint was justified, it has power to ask the authority concerned to redress the grievance. If the authority fails to comply, the Commission can, as a last resort, ask the courts to issue a directive.

Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR)

178. In August 1996, the Cabinet decided to ratify the Optional Protocol to the ICCPR. This measure will enable Sri Lankan citizens to avail themselves of international remedies as a final resort in the case of human rights violations. The Optional Protocol was ratified on 3 October 1997.

Article 7

Education and teaching

Human rights education in schools

179. Human rights teaching in schools has continued and has been strengthened since the consideration of Sri Lanka's last periodic report to CERD. As a follow-up to the recommendations made by the National Institute of Education (NIE) in 1993 to improve the

teaching and learning of human rights in schools, the NIE, in association with the Human Rights Centre of the Sri Lanka Foundation, undertook several projects. In-service training sessions for personnel (social studies master teachers and divisional directors) involved in human rights teaching were held during the years 1994 and 1996. These sessions were useful for updating their knowledge on the subject and for imparting new methods and techniques in presenting the subject in the classroom. During 1997, the Human Rights Centre completed the task of training the entire corps of master teachers in the island. A battery of model evaluation instruments has been produced to help teachers correctly evaluate human rights projects.

180. An evaluation conducted in 1993 showed that although students' knowledge of human rights had developed adequately, attitude changes were slow. In order to change this situation, it was felt that steps needed to be taken to implement effective qualitative changes in teaching strategies and methodologies. As audio-visual media, such as filmstrips, audio recordings, still pictures, printed booklets, etc., are capable of more effective communication and contribute to a higher rate of learning and retention, the NIE developed a multimedia package incorporating various teaching methods and media. Six history lessons and six social studies lessons most suitable to be taught through the use of multimedia were selected. The 12 completed packages, consisting of posters, booklets, games and maps, were presented at a formal ceremony held in 1996. However, owing to lack of funds the department is unable to duplicate these for distribution in schools island-wide.

Education for conflict resolution

181. Acts of violence in the North, the East and the southern parts of Sri Lanka in the last decade have brought into focus the desirability of promoting resolution of conflicts, through peaceful means. The prominent role played by young people in conflict both in the North and the South, indicates that conflict resolution strategies should particularly focus on the youth. The recognition of the need to create attitudes of tolerance and understanding and awareness of non-violent means of conflict resolution among youth resulted in the formulation of an education for conflict resolution (ECR) project by the Government of Sri Lanka.

182. The Ministry of Education and the National Institute of Education launched the ECR in 1992, with financial assistance from UNICEF, to achieve the following goals:

- Create awareness and strengthen belief in non-violent means of conflict resolution;

- Develop skills and attitudes among young people to enable them to resolve conflict through peaceful means;

- Promote greater understanding among different ethnic/religious/social groups;

- Strengthen values of tolerance, compassion, understanding and respect for others.

183. There are several different programmes focusing on ECR with a view to imparting ECR knowledge to various sections of the population, namely students, teachers, education administrators, the public and several project implementation bodies, in order to implement the strategies of the ECR programmes. The main strategies of the project are:

- Creation of a pool of expertise in ECR at the National Institute of Education, which is the main institution responsible for the national curriculum and teacher education;

- The integration of ECR into the training programmes for master teachers, principals, teacher trainers and teachers;

- The development and printing of training and teaching materials in ECR in local languages suitable for the local environment;

- A mass media campaign to sensitize the public, parents, policy makers and opinion leaders.

184. ECR now forms part of the curriculum of both primary and secondary education in Sri Lanka. It has also been integrated into the syllabuses of teacher education at teachers' colleges and colleges of education, postgraduate teacher education, distance education and principal training. The project has trained several thousand principals, master teachers, primary teachers, special education teachers and administrators in the education service using group communication and interpersonal communications approaches. This has developed a change in attitude towards ECR among teachers. Several textbooks, training manuals, booklets and handouts have been produced and distributed to schools and training centres. Several effective ECR messages for TV and radio have been developed for broadcasting.

185. One of the highlights of the ECR project in 1996 was the one-week-long residential peace camp for children of all communities, races, religions and social groups held in May. Approximately 200 children participated in this camp which was organized through the Girl Guides Association of Sri Lanka under the patronage of the Ministry of Education and Higher Education. This event received media publicity and was featured on the main evening television news in Sri Lanka.

186. Since Sri Lanka has a total of approximately 195,000 teachers, the teacher training programmes will have to continue for a much longer period of time if they are to achieve national coverage. However, the strategy to fully integrate ECR into the national curriculum would by itself eventually ensure coverage beyond the areas where the pilot schools have been established. There are approximately 2.1 million primary schoolchildren in the country. The project has so far reached about 1 million children. The total number of schoolchildren, including in the secondary grades, is 4.5 million.

187. It is also proposed to extend ECR through community-based activities through NGOs. In 1997, activities to extend the programme to cover a greater geographical area were undertaken.

Human rights education for the armed forces

188. Human rights education forms part of the training of all law enforcement officers, members of the armed forces and prison officers. This training includes lectures on the fundamental rights guaranteed by the Constitution, international human rights norms, criminal procedure law, the rights of a citizen and the duties and obligations of law enforcement officers. Demonstrations and visual aids reinforce these lectures. Seminars and discussions are also held during various stages of the officers' service.

189. Human rights education was introduced into police training in the early 1980s. It is now a subject of instruction at the Sri Lanka Police College where basic training is provided for new recruits, at the Police Higher Training Institute where promotional and refresher courses are provided and at divisional training centres where in-service training is provided. Officers are questioned on aspects of human rights at all examinations. In 1997, all Officers in Charge, Assistant Superintendents of Police, Subinspectors of Police and Deputy Inspectors General underwent a special two-day training programme on international norms on human rights.

190. As a matter of policy, the Government is committed to ensuring that all service personnel are properly instructed and trained to respect and observe standards of human rights and humanitarian law, so that their powers are not used arbitrarily or excessively and that weapons are not used indiscriminately. While the law of war and humanitarian law have been part of the education and training of the armed forces, the scope and content of these programmes are being revised with emphasis on understanding and practice.

191. A separate directorate at army headquarters to deal exclusively with international humanitarian law (IHL) was established in 1997. The role and tasks of the Directorate include implementation of IHL and the law of war in the ongoing conflict, and planning and implementing a dissemination programme on a regular basis for all ranks in operational areas and in training institutions. It also includes working out a syllabus for IHL and the law of war to be taught to army personnel ranging from recruit to captain level. This is for the purpose of introducing these as compulsory subjects at promotion examinations.

192. The Government has also benefited from the assistance received from non-governmental organizations in conducting human rights awareness programmes for the armed forces, the police and other public servants.

193. The ICRC began conducting seminars aimed at promoting the awareness and understanding of international humanitarian law among the armed forces in Sri Lanka in 1986. Since the establishment of an ICRC delegation in Sri Lanka in 1989, these programmes have continued and expanded to include law enforcement officers, members of special task forces, paramilitary units, public servants and Sri Lanka Red Cross workers. Regular courses and lectures are held for all levels of armed forces personnel in training centres and in operational areas. Approximately 35,000 persons have participated in these seminars since June 1993. Twenty five thousand armed forces personnel have been among this number. In March 1997, the ICRC conducted a week-long seminar on humanitarian law for 10 army majors and 15 captains. It is expected that these officers will be sent in to training centres and operational areas to disseminate this knowledge.

194. The ICRC has also printed booklets in English, Sinhala and Tamil on the law of war and manuals of instructions, which have been distributed to the forces. It also sponsors members of the armed forces to participate in international or regional seminars on humanitarian law.

195. In June 1993, the Centre for the Study of Human Rights launched a programme to provide human rights education for the armed forces and the police with a view to sensitizing those groups to the value of human rights and to point out the limits of their powers. Subsequent to preliminary discussions with directors of training of the armed forces and police, two introductory seminars/workshops were conducted for a group of 31 new Assistant Superintendents of Police and 7 naval officers respectively.

196. In 1995 steps were taken to supplement the training of three specific target groups, i.e. the policy makers, the trainers and recruit levels of the armed forces and the police. A training manual has been compiled covering human rights standards and court cases for the trainers and a handbook for the recruits. The training manual was formally presented to trainers in the armed forces and the police in March 1995, at a one-day workshop held in Colombo.

Non-formal human rights education

197. While a number of non-governmental organizations are involved in the dissemination of information on human rights for various groups of the population, human rights education is the primary objective of the Human Rights Centre of the Sri Lanka Foundation and the Centre for the Study of Human Rights.

Human Rights Centre of the Sri Lanka Foundation

198. The Human Rights Centre was established by the Sri Lanka Foundation to commemorate the thirtieth anniversary of the Universal Declaration of Human Rights. The Centre promotes awareness and respect for human rights and fundamental freedoms through national programmes of education, discussions, publications and research. In addition to its extensive involvement in developing human rights education in schools, the Centre also focuses on educating community groups on the observance of and respect for human rights.

199. In January 1996 the Centre conducted a national seminar and workshop on education for peace, tolerance and national reconciliation. It has also commenced holding a monthly public lecture programme on human rights.

The Centre for the Study of Human Rights (CSHR)

200. The CSHR was established in the University of Colombo in 1991 with a mandate to conduct and facilitate human rights education and research programmes for the university community as well as the community at large. The Centre's target groups include schoolchildren, teachers, principals, members of the armed forces and the police, professionals, and community groups such as farmers, housewives, unemployed, youth, etc. The Centre's activities are interdisciplinary in nature, the main thrust being to develop a human rights culture.

Human Rights Centre of the Bar Association of Sri Lanka

201. In March 1997, the Human Rights Centre of the BASL, which has traditionally focused on providing legal assistance in human rights matters, embarked on a human rights education programme. Initial programmes have been conducted for the army and police. Further seminars are to be extended to young lawyers and senior media personnel.

Culture

202. The Government recognizes culture as an essential component of overall planning and as a medium of national integration. Culture is viewed in the conceptual framework of building peace as well as national development. The culture and tradition of all communities will be protected and preserved and every effort will be made to foster inter-cultural understanding.

203. The Ministry of Ethnic Affairs and National Integration promotes multiculturalism by assisting the various institutions of the Government in launching programmes to achieve greater appreciation and understanding of the multilingual and multireligious character of the Sri Lankan society. The Department of Official Languages (which comes under the purview of the Ministry of Ethnic Affairs and National Integration) is involved in combating racial prejudices and promoting inter-cultural understanding, tolerance and friendship among the racial groups living in Sri Lanka through the promotion of inter-cultural activity and its "Peace through Language" programme.

204. The inter-cultural activity programme of the Department promotes understanding of the culture of the majority among the minority Tamil and Muslim communities and vice versa as a long-term strategy to achieve communal harmony. Every year, on 30 December, "Language Day" is celebrated islandwide. The main objective of this is to encourage writers who have made a contribution, to bring together the communities on a cultural basis and to help cultivate in readers a taste for each other's language and literature. As part of this programme, the Department in 1996 identified writers and scholars who have contributed towards communal harmony through their work in the spheres of creative writing (including poetry, drama, prose and fiction), literary translations, lexicography, education, research and the media.

205. It is also envisaged that the language training provided by the Department will not only ensure the effective implementation of the language law of the Government, but will also foster inter-ethnic harmony and coexistence through better dialogue. Hence the policy of "Peace through Language" is being pursued.

Information

206. Since the present Government came into power in August 1994, the State media have taken a keen interest in disseminating information on combating racial prejudices. Over the last two and a half years, the television and broadcasting corporations have had a series of panel discussions which featured a variety of viewpoints in support of interracial justice, ethnic harmony and peaceful coexistence. Eminent lawyers, civil rights activists and politicians of

different parties, academics and artists of repute participated in these discussions. A serialized Sinhala drama televised over State television in 1996 was aimed at inculcating the values of non-racial communal attitudes in the minds of viewers.

207. There is an increasing awareness of human rights issues among the print and electronic media and an increasing commitment to cover these issues. Most newspapers give publicity to days declared by the United Nations for human rights, such as International Women's Day, World Environment Day, Human Rights Day, etc. Significant judgements of the Supreme Court are given prominent coverage by the English, Sinhala and Tamil newspapers. The recent decision of the Supreme Court, holding that the Broadcasting Authority Bill was unconstitutional and a violation of the right to freedom of expression and thought, sparked widespread debate in all the newspapers about the nature of these internationally recognized rights and the limits on State power.

208. The State Television Corporation has taken steps to launch a Sinhala and Tamil language-teaching project which focuses on reading, writing and conversation. The programme will also attempt to disseminate information on the lifestyle of the two communities, including habits, customs and observances.

Annex

ADDITIONAL INFORMATION ON ARTICLE 5 (E): ECONOMIC, SOCIAL AND CULTURAL RIGHTS

PERSONS LIVING IN THE NORTH AND EAST OF THE COUNTRY

1. The population living in the north of the country, comprising the Jaffna peninsula and the Vanni, have most directly felt the impact of the conflict in Sri Lanka. Since the first outbreak of hostilities between the Government and the forces of the LTTE in 1983, some of these areas have from time to time been under the control of the LTTE, although the Government has continued to maintain local administration and most of the regular services.

2. At the time of writing this report, the area of the Vanni remains uncleared of the LTTE. However, the Government continues to send essential food items and medical supplies to the Vanni. A number of international NGOs have been permitted to work in these areas to complement the Government's efforts and avert a humanitarian crisis. While LTTE front organizations collect vast sums of money abroad for humanitarian aid, there is no evidence that these are directed to the civilian population in the uncleared areas.

3. From time to time, the LTTE and its front organizations have been propagating orchestrated reports concerning the so-called "food embargoes" to the LTTE areas in the Vanni district. On certain occasions, the LTTE has threatened to close the offices of the humanitarian organizations such as UNHCR in the Vanni with a view to applying pressure on them, simply because those organizations refused to subscribe to the LTTE's claims about food embargoes. No international agency has ever said so, for the obvious reason that food has continued to flow to the Vanni as documented by the World Food Programme, which monitors the situation. Sri Lanka may be the only country in the world which continues to provide free food rations to all, including the terrorists who are waging a terror campaign against the elected Government. This was attested to by the Representative of the Secretary-General for IDPs, Mr. Francis Deng, who visited Sri Lanka in November 1993.

> "On the whole, there is a general positive assessment regarding the Government's response to the problem of internally displaced persons. The Government has assumed full responsibility for its displaced and returnee population and works closely with international agencies and organizations. Relief assistance is considered to reach most groups satisfactorily. Sri Lanka presents the unusual situation of a central Government providing relief aid to persons under the control of the main opposition group. In a world replete with examples of Governments and rebel groups using food as a weapon against civilian populations, the situation in Sri Lanka is one that deserves closer attention if not more publicity as an important precedent!" (E/CN.4/1994/44/Add.1, para. 67)

4. On the other hand, national and international NGOs such as the Seva Lanka Foundation, the Rural Development Foundation, the Sri Lanka Red Cross Society, CARE International, ICRC, Médecins sans frontières, Oxfam, Redd Barna, Save the Children Fund (UK), UNHCR, UNICEF, UNDP and FAO have been given unhindered access to the uncleared areas in assisting the Government's humanitarian services.

5. In April 1996, the Government was successful in clearing the Jaffna peninsula of LTTE activities. Prior to evacuating the peninsula, the LTTE forcibly expelled the entire population of Jaffna to the Vanni region, thereby displacing more than 500,000 persons in one fell swoop. Since the re-establishment of civilian administration by the Government, the population has been slowly returning. As at June 1997 the population of Jaffna was estimated at 465,000.

6. The clearing of the Jaffna peninsula of the LTTE by the Government in 1996 has offered a fresh opportunity for the reconstruction and rehabilitation of Jaffna. The following is an account of the Government's effort to maintain normalcy in the affected areas and, more particularly, current efforts to rehabilitate and reconstruct the Jaffna peninsula.

A. Rehabilitation and reconstruction of Jaffna

7. Following the signing of the Peace Accord between the Government of Sri Lanka (GOSL) and the Government of India on 29 July 1987, the GOSL invited international donors to contribute to the Emergency Rehabilitation and Reconstruction Programme (ERRP) mainly of the North and East of the country. The main objective of ERRP was to bring about normalcy, a stable political, economic and social framework and reconciliation among the different communities in the conflict and other areas, thus restoring a peaceful environment conducive to productive and profitable activities. At a special aid group meeting in December 1987, donor countries pledged US$ 493 million for ERRP. ERRP was a multisectoral programme covering rehabilitation of civic infrastructure, housing, transport, agriculture, agrarian services, animal husbandry, cooperatives, fisheries, telecommunication, education, health, irrigation, roads, water, power, public corporations, commercial enterprises, and private industry. Although the outbreak of hostilities in 1990 and the continuation of the conflict constituted a major setback for the implementation of the programme, substantial progress was made in restoring and improving major physical infrastructure in the eastern districts and in certain cleared areas of the northern district. It has also played a significant role in assisting the Government to meet the objectives of national reconciliation and reconstruction.

8. The programme was completed in 1994 except for the Batticaloa Integrated Rehabilitation and Reconstruction Programme (in the East) funded by the Norwegian Agency for Development (NORAD), which is still continuing. At the end of 1994 ERRP I had utilized US$ 234 million.

9. Soon after regaining control over the Jaffna peninsula, the Government initiated a programme for the reconstruction and rehabilitation of the Jaffna peninsula and for the resettlement of the returning population. This two-year US$ 274 million programme, prepared with the assistance of UNDP and the World Bank, is to be funded by donor contributions.

10. The programme consists of two components. The first, which concerns relief and resettlement, is estimated to cost US$ 112 million. The second, concerning the rehabilitation and reconstruction of the economic and social infrastructure, as well as the productive support service sectors, is being implemented concurrently with the first component and is expected to take two years to complete. A number of foreign Governments (Japan, United Kingdom, Germany and India) have pledged assistance to this programme. Since then the Government has elaborated this programme to include the development of a number of projects in the various

sectors which address both immediate needs as well as more long-term reconstruction programmes. Within this framework The Rehabilitation and Resettlement Authority of the North (RRAN), with UNDP assistance, has also identified a set of small and medium-sized projects for immediate funding and implementation, based on needs identified by the local authorities.

11. RRAN was set up by the Government in January 1996 with the overall responsibility for planning and coordinating the resettlement and reconstruction efforts in Jaffna.

12. The Colombo-Jaffna highway is useable only up to Vavuniya. The 90-mile stretch from Vavuniya to Jaffna runs through territory temporarily under the control of the LTTE. At present passengers, food and essential supplies to Tamil civilians in the Jaffna peninsula are sent by air and sea.

B. Food assistance

13. Except for those welfare centres receiving WFP assistance, the Government continues to provide essential food supplies for all internally displaced persons living in welfare centres and with friends or relatives. This food assistance takes the form of provision of dry rations or cash in lieu of dry rations. The provision of dry rations, consisting of dhal, flour, milk food, pulses, rice, spices, sugar and other food items are distributed through cooperative stores. Cash payment in place of dry rations was first introduced in the Trincomalee district in November 1994 and extended to other districts in the East. The reason for the introduction of this scheme was to meet contingencies such as the inability of the Commissioner General of Essential Services (CGES) to dispatch supplies, difficulties in transportation due to security considerations, etc.

14. The value of the food entitlement per month according to size of family is as follows:

1 person	-	Rs 336
2 persons	-	Rs 616
3 persons	-	Rs 840
4 persons	-	Rs 1,008
5 persons and more	-	Rs 1,260

Newly displaced persons are supplied with cooked meals for three days at a cost of Rs 45 per adult and Rs 25 per child per day. Thereafter, if they are unable to return to their places of residence they become entitled to dry rations or food stamps.

15. The Cabinet has considered the question of increasing food or cash assistance to families with more than five members. As soon as the present financial crisis improves it is proposed to take action to increase the entitlement per family.

16. The transport of food to Jaffna and Mannar Island is by cargo vessels chartered by the CGES, and to the East and other areas by road. The average monthly cost of food assistance to displaced persons is in the region of Rs 200 million.

17. The nutritional status of displaced persons is being monitored by NGOs on the basis of mid-upper arm circumference, or MUAC, surveillance implemented during visits to health clinics or relief distributions. There is under-nutrition among children, although acute malnutrition is very low. No deaths due to starvation have been reported. The National Core Group for the improvement of health facilities for displaced persons is exploring the possibility of conducting a nutritional survey of all refugee camps in the near future.

C. Provision of shelter

18. The Government provides shelter for displaced persons at welfare centres, which take the form of communal shelters or individual huts situated in areas outside the conflict zone. As at 31 December 1996, there were 373 welfare centres housing 142,265 displaced persons (35,847 families). The majority of the welfare centres are situated in the Northern and the North Western provinces. In 1995, the Government embarked on a programme to enhance the living conditions of welfare centres. Under this programme, effort is being made to house displaced families in welfare centres consisting of individual huts, wherever possible, in order to protect the dignity, privacy and family life of displaced persons. Each individual hut is approximately 10 x 15 sq. ft. It is generally constructed out of a temporary material such as kajang with proper ventilation and has a cement floor.

19. Enhancement of facilities at welfare centres also include the provision of toilets, supply of electricity, provision of water for drinking and other purposes by pipes, wells or bowsers and provision of infrastructure, recreational facilities and places of religious worship.

20. Newly displaced persons are housed in converted public buildings until welfare centres can be constructed.

D. Resettlement and relocation of displaced persons

21. A programme of resettlement of displaced persons in their original places of residence was begun by the Government in 1989 as part of ERRP I (1988-1994; see below). Since 1996, the Government has also taken an initiative to relocate persons where it is not possible to resettle them in their original places of residence. Land donated by well-wishers, State land, unutilized land vested in the Land Reform Commission or land purchased by the displaced persons themselves is used for this purpose. Resettlement programmes are implemented with the consent of the parties in areas which are well secured and afford mobility and access to surrounding secured areas. Relocation too depends on the consent of the displaced person and additionally the consent of the local people in the area of relocation. Thus, prior to relocation of displaced persons, politicians and local leaders are consulted and their approval is obtained. The Government is mindful that existing demographic patterns should not be dramatically disturbed in this process.

22. For the successful implementation of any scheme of resettlement or relocation, the persons, their property and the community will have to be rehabilitated. The newly settled families must have the opportunity and facility to restart socio-economic activity and get on with their lives in a normal fashion. In order to allow families to do so, the Government has

formulated a comprehensive and realistic package of assistance. Once a family is resettled or relocated, the gramasevaka of the area is empowered to assess the damage or loss incurred by each family and, depending on the type and degree of loss and damage, a person is entitled to all or some of the following assistance.

- Settling-in allowance of Rs 2,000 per family for the purchase of kitchen utensils and other basic requirements;
- Housing grant of Rs 25,000 to repair/reconstruct damaged or destroyed houses (provided that income is below Rs 1,500);
- Housing loan of up to Rs 250,000 for those who have an income over Rs 1,500;
- Loan at a concessionary interest rate to buy agricultural or other implements;
- Productive enterprise grant (PEG) of Rs 4,000 to revive economic activity (PEG is not paid unless and until the family is in a position to engage in their own economic activity);
- Government food assistance for six months after PEG. After the lapse of six months, the resettled or relocated displaced family is no longer entitled to receive government food assistance;
- Rs 7,000 for a temporary hut until the damaged house is repaired or a new house is built;
- Rs 1,000 for implements to clear the compound of overgrowth, weeds, etc.

23. In addition to this assistance aimed at rehabilitating the person and property of displaced persons, the Government also makes every effort to rehabilitate and/or reconstruct the village in which they are resettled/relocated to create a physically, economically and socially sustainable environment for their progress. In this context relief, rehabilitation and reconstruction will be treated as an exercise integrated with the development process. Reconstruction and rehabilitation will focus not only on the areas of housing, transport, roads, agriculture, agrarian services, animal husbandry, fisheries, education, post, telecommunication, health, irrigation, electricity and water supply, but also on cultural assets such as libraries, community centres, places of religious worship, sports facilities, etc. Thus, it must be noted that the Government's policy is not merely to restore resettlement villages to their previous status, but to improve them and provide additional infrastructure and facilities. Where displaced persons are relocated, existing facilities are enhanced and improved to cater for the needs of the additional population.

24. From the idea of integrating development activities with reconstruction and rehabilitation, the concept of "Resettlement Model Villages" has arisen, i.e. villages where displaced persons are relocated/resettled with adequate socio-economic infrastructure to

carry on with normal socio-economic life. The concept was implemented for the first time in 1996. To date, 26 model villages have been established and 4,447 families (i.e. approximately 20,000 persons) have been resettled or relocated. In 1997 it is hoped that 10,000 persons will be resettled under this scheme.

E. Employment

25. The Rehabilitation and Resettlement Authority of the North with the assistance of international NGOs has taken steps to revive traditional means of livelihood such as in the agriculture, livestock and the fisheries sectors by providing implements, etc. Assistance is also being given to commence small and medium-scale industries and self-employment projects with a view to ensuring a steady income for persons living in these areas.

26. Agriculture is the largest source of income in the Jaffna district with approximately 55 per cent of the population engaged in farming. Most farmers are also engaged in livestock farming. The agricultural base has been adversely affected by the loss of implements, livestock, and water pumps and by the destruction of productive land. Marketing of produce suffers from inadequate transport. For these reasons the Government gives priority to the agricultural sector. In response to a request made by the President, FAO has obtained assistance from the Governments of Norway and the United Kingdom to develop the agricultural sector.

27. The Central Bank of Sri Lanka has initiated a loan scheme under which all farmers resettled in the Jaffna peninsula will be eligible to apply for a loan of Rs 10,000.

28. Efforts are also under way to revive the industrial sector, which employed some 28 per cent of the work force in 1980. A Strategic Plan has been drafted by the Industrial Development Board to help people in Jaffna recommence small and medium industries.

F. Health-care services

29. The Government continues to provide health-care services in the North and East despite severe constraints. While the services of national and international NGOs and humanitarian agencies such as MSF and the ICRC have been solicited and obtained to support the Government's effort, serious deficiencies do exist in these areas in terms of human resources, infrastructure, transport facilities, accessibility, etc. Medical supplies such as drugs, dressings, surgical requisites and equipment are sent regularly as per national norms, and over these norms when the occasion so demanded even though some supplies are forcibly taken over by the terrorists. In the Jaffna peninsula health services are being upgraded under the supervision of RRAN.

30. The Teaching Hospital of Jaffna (THJ) provides apical tertiary care to the North supported by a network of secondary and primary care institutions. The THJ functioned at near normal capacity until December 1995, when the terrorists forced the medical staff to abandon the hospital and stripped it of all facilities when they retreated from the area. Prior to the forced evacuation, the area surrounding the THJ was a neutral zone under the supervision of the ICRC.

The hospital services have been resumed after liberation of the Jaffna peninsula and have gradually increased with the help of volunteer medical staff. Of the 30 wards in the hospital 17 are functioning. Two wards were demolished to make space for a new five-storey building costing Rs 40 million. The operating theatre has been fully repaired.

31. Owing to the reluctance on the part of health personnel, particularly specialists, to serve in the North and the East, health workers attached to international NGOs have been augmenting specialist medical care in a number of secondary and tertiary care institutions. Voluntary health workers, who were given short-term training where necessary, have also supplemented the human resources for health in the North.

32. Primary health-care services are maintained at near normal level, with an accent on maternal and child health, environmental sanitation, control of communicable diseases and health education. Even the National Immunization Days programme to eradicate polio from the country was successfully implemented in the North and the East.

33. Medical supplies, including drugs, are provided as per forecasts of the Provincial Director of Health Services and directors of the tertiary care institutions on a quarterly basis, and requests for special supplies are complied with. The required medical equipment is also sent on a regular basis.

34. The free public health-care service of the State is available to all displaced persons in areas where they have sought refuge. In districts where there are a large number of displaced persons, the system has come under considerable strain due to the shortage of facilities, staff and drugs. Measures are being taken to strengthen existing services in these areas. In addition, mobile health clinics are conducted regularly to monitor the health situation in welfare centres and to provide preventive and curative care. Health volunteers have been appointed to districts which receive displaced persons. District and divisional health committees for displaced persons are also functioning. National health campaigns such as for polio immunization are conducted in all welfare centres.

35. A National Core Group for the Improvement of Health Services for Displaced Persons has been established under the Ministry of Health to coordinate the activities of governmental authorities, health personnel in the districts of displacement and NGOs working in the field. Regular meetings are held to discuss problems and solutions.

G. Education

36. Despite interruptions to education in the North, the Government is confident that in the context of the intense interest in education which has prevailed and is continuing to prevail in the Jaffna peninsula, significant progress can be made in this sector. As at June 1997, statistics on education were as follows:

No. of students	108 745
No. of schools functioning	425
No. of teachers	4 171
Pupil-to-teacher ratio	26

37. Owing to the conflict, a large number of Jaffna students have been unable to continue their education. Although they may have returned to the peninsula, they are unable to cope with education. As a result, school absenteeism and drop-outs are increasing. The attitude to education has also become negative. In order to alleviate this situation, the North East Provincial Ministry of Education has planned to improve the education of 14,000 primary students in Jaffna by assisting those students to bridge the gap between expected and real learning from year 2 to year 5, and to improve the skills of primary teachers; 120 schools are expected to benefit from this programme.

38. All the faculties of the University of Jaffna, except the Agricultural Faculty situated in Killinochchi, are functioning and 90 per cent of the student population has returned. There is, however, a shortage of staff, both academic and non-academic.

39. An array of training programmes, some of them institutional and others less formal but linked to employment opportunities, are also in the pipeline. The Technical College, Jaffna is functioning at its old premises. The College, which lost most of its equipment, received a grant of US$ 517,257 from the United States Agency for International Development and UNDP, in August 1997 to rehabilitate and upgrade the College. RRAN has extended its cooperation to this project by ensuring clearance for supplies and personnel from Colombo to Jaffna and the prompt offloading of goods from government ships. The College annually receives over 6,000 applications. Only 10-12 per cent of those applications are accepted.

40. Displaced children are eligible to attend schools in the areas where they seek shelter. Where there is a large influx of students, arrangements are made to conduct afternoon classes for displaced students from 2 p.m. to 5 p.m. This is a temporary measure until educational resources such as classrooms, desks and chairs, lavatory facilities, etc, can be upgraded and increased to accommodate the increased number of students. It is considered that afternoon lessons are not conducive to learning and every measure is taken to ensure that displaced children can attend school during normal hours with other children of the area.

41. In 1996, in the District of Puttalam, where there are a large number of displaced Muslims, (out of 80,000 Muslims ousted from the Northern province in 1990 approximately 60 per cent sought refuge in the District of Puttalam in the North Western province of Sri Lanka after being expelled by the LTTE; this number included almost 11,000 students), the Government built 29 new school buildings and provided educational facilities for 6,000 additional students.

42. In January 1996, the Government launched a scholarship programme for displaced children who had completed their GCE "O" Levels to help them pursue higher studies. Under this programme a monthly allowance of Rs 500 is to be paid to eligible students on merit, until completion of the sitting of the GCE "A" Level examination for the first time (this is for a maximum period of 27 months).

H. Vocational training

43. Facilities have been provided in some welfare centres to conduct vocational training programmes for children and young adults. These centres provide training in typing, computers, carpentry, sewing and languages.

I. Right to housing

44. The housing sector has sustained extensive damage during the years of conflict. A priority concern of the Government is to enable the repair of damaged houses, provide housing assistance and making available building materials to enable the returnees to reconstruct their damaged or destroyed houses.

45. The Government makes payment of a settling-in allowance of Rs 5,000 to displaced families returning to Jaffna to enable them to commence repairs on houses that are damaged.

J. Right to participate in cultural activities

46. An Indian correspondent who visited the peninsula recently described festivities relating to the New Year as follows:

> "On Sinhala and Tamil New Year's Day (April 14) Jaffna witnessed the most unusual spectacle in recent years as over 400 men, women and children gathered at the Paravathi Community Centre at Ariyalai in Jaffna District to celebrate the New Year. Something they have not done in the past seven years."

47. The people of Jaffna are freely taking part in cultural activities and the Government gives all assistance in this respect. The Government undertook the renovation of places of worship, Hindu temples and Christian churches. These activities began in July 1997.

II. THE PLANTATION SECTOR

48. The plantation sector has generally been disadvantaged in its access to economic, social and cultural rights owing to the fact that historically its welfare was the responsibility of plantation companies and not the State. As a result, Indian Tamils brought to Sri Lanka by the British as indentured labour, who comprise 5.5 per cent of the population of Sri Lanka and 88.6 per cent of plantation workers, have as a community been disadvantaged. Sinhalese represent 10.3 per cent and Muslims 1.0 per cent of the plantation sector population.

49. Following the nationalization process of estates in 1975, the management of estates was vested with two government corporations, i.e. the Janatha Estate Development Board (JEDB) and the Sri Lanka State Plantation Corporation (SLSPC). The social welfare of workers under these corporations was made the responsibility of the social development divisions of the respective corporations. A Medium-Term Investment Programme (MTIP) for the rehabilitation of the plantation sector was implemented during the period 1985-1992. The MTIP included a

social welfare programme (SWP) whose objective was to improve the health status and social well-being of the plantation sector by upgrading or providing new water supply and sanitation facilities; maternity wards, dispensaries and child care centres; and supervisory staff houses.

50. The SLSPC and the JEDB implemented the project during the period 1985 to 1992 with a total investment of Rs741.8 million, 95 per cent of which was an outright grant from the Governments of Norway and the Netherlands. These two Governments also provided additional funding for a Technical Assistance Team (TAT) with expatriate and local personnel to provide technical assistance to the two State corporations for planning and implementation of the SWP, and monitoring performance and the impact of the project. Despite the management of estates being once again privatized in 1992, the welfare of estate workers has continued to be a priority concern of the Government. Following the restructuring process, although the social development divisions of the two government corporations have ceased to function, the relevant line ministries are now directly responsible for the promotion and protection of the economic, social and cultural rights of these workers. The Government also took the initiative to set up a new limited liability company named the Plantation Housing and Social Welfare Trust in September 1992 to perform a supportive function and a coordinating role in the promotion and delivery of health care and housing on estates.

51. The Trust has its head office in Colombo and has seven regional offices. Each regional office, headed by a director, has units dealing with health, engineering, housing and administration. Funding for a second Social Welfare Programme - SWP II was negotiated with the Dutch and the Norwegian Governments and is now under implementation. The main components of SWP II are:

(a) Assistance to the planning, development and management of community service facilities such as health centres, crèches and water supply facilities;

(b) Assistance to resident families to improve their household environment through pilot self-help schemes in housing and sanitation;

(c) Action to improve the quality and efficiency of health care welfare services through education, training and awareness campaigns;

(d) Assistance to housing development through support to the formation and operation of independent housing associations to undertake construction, management, and transfer of ownership of the houses to the occupants;

(e) Technical and financial monitoring and evaluation of both the quality of the investments and service provision and the general development of health and welfare conditions in the estates.

A. Right to work

52. There is an increasing surplus of labour in the estate sector and therefore a problem of employment for estate youth entering the labour market. The grant of Sri Lankan citizenship to Indian Tamils in the late 1980s provided greater mobility amongst the plantation youth. Whether

it be in the Middle East, urban areas or nearby villages, the low levels of educational achievement amongst the estate population has traditionally placed a serious constraint on the kind of work that is likely to be available. The need for vocational training of these youths has been recognized and is being addressed by the Government.

B. Estate education

53. Educational reforms undertaken at the national level in the years after independence did not reach the plantation sector as plantation education was the responsibility of the plantation management companies. At the time of the Government's take-over of estate schools, between 1977 and 1980 the state of education in these schools was woefully inadequate. In 1981 the literacy rate among Indian Tamils was 67 per cent and the pupil - teacher ratio was 55:1. Most schools were one-teacher schools and most teachers were "O" Level-qualified with no teacher training. Most schools had classes only up to year 6 and for further education children had to travel to distant town schools.

54. In 1984 the Government initiated a project to improve 42 plantation schools in Passara, in the District of Badulla, through the Integrated Rural Development Project (IRDP). The remarkable improvements achieved through this programme encouraged the launching of a further two programmes, one to develop all plantation schools in the country and the other to develop other disadvantaged schools in the non-plantation areas (both Sinhala and Tamil). The Ministry of Education launched the Plantation Sector Education Development Project (PSEDP) in 1986 with assistance from the Swedish International Development Agency, in order to eliminate disadvantages in education and training encountered by the population in the plantation sector. The programme focuses on 10 projects, i.e. quality improvement of elementary education, teacher supply, expansion of enrolment and improved attendance, expansion of opportunities for post elementary education, infrastructure development, health and sanitation, community school relations, expansion and quality improvement of non-formal education, impact evaluation and organization, management and monitoring.

55. Achievements under each of these projects have been remarkable. As observed by R. Sivasithambaram and Kamala Peiris:

> "... this project has done for the plantation schools what has not been done for nearly 130 years. Schools look like schools and the community has responded with more and better-clad children, receiving the type of education which could not have been dreamt of a few years back. Children do not now need to travel far for primary or secondary education. Gender disparities are on the decline. There is a sense of satisfaction and achievement all round." (See The Plantation Sector Education Development Programme (PSEDP) in Sri Lanka by R. Sivasithambaram and Kamala Peiris in "Beyond Jomtien - Implementing Primary Education for All" edited by Angela Little, Wim Hoppers and Roy Gardner, Macmillan Press, 1994).

56. Between 1987 and 1998 a total of 629 plantation schools are expected to benefit from PSEDP. Overall student teacher ratios have been reduced and enrolment growth in excess of an average of 10 per cent per annum has been recorded in most of the project areas. Student

achievement levels have increased and the expansion of opportunities for secondary education has proceeded apace. The infrastructure of schools has been upgraded with new school buildings, lab facilities, furniture, and health and sanitation facilities.

C. Housing

57. The majority of the estate population live in so-called "line-rooms" provided by the plantation companies, which are situated within or in convenient proximity to the estate. Although more than 95 per cent of workers in the estate sector were provided with housing, almost 70 per cent of these units were in bad condition, in need of upgrading or replacement with limited access to water and sanitation. Furthermore, with about 60 per cent of these comprising a single room, overcrowding is one of the most pressing problems. An estimated 821,000 resident labourers live in approximately 200,000 housing units. Estate housing also suffers from not being in close proximity to social infrastructure.

58. The plantation sector has been identified as a priority area in need of government intervention and currently a sizeable settlement and shelter development programme is being carried out.

59. Past efforts at improving the housing situation of the estate sector have included efforts by the JEDB and SLSPC funded by the ADB and the IRDP. The Social Welfare Programme I (1985-1992) concentrated on re-roofing and upgrading as well as on self-help construction of new housing on a loan basis. On the experiences gained from SWP I, SWP II (1993-1997) consists of new self-help construction programmes as well as the development of upgrading options.

60. The Government endeavours to improve the housing situation of estate workers in collaboration with the Plantation Housing and Social Welfare Trust (PHSWT). The programme is administered through the plantation cooperative societies. Plantation workers are assisted in upgrading their housing units and also in the construction of new houses on land identified for that purpose.

61. In mid-1993, action was initiated to establish estate worker housing cooperatives in all estates with a view to encouraging the participation of beneficiaries in housing development. The estate worker housing cooperatives, once developed, would serve as an institution that could muster the concentrated efforts of the workers in the improvement of their housing conditions in the future.

62. The aspiration of the worker to live in an independent and individual housing unit has been recognized by the Government and is reflected in its willingness to confer ownership of land for housing on the workers. Conferment of legal title will initially be through a lease agreement and subsequently by title deed, which would attract individual investment and borrowings from the bank. It has been agreed that 5-10 perches would be allotted to each homebuilder who could pledge such land to obtain a loan. The Government's decision to make available the necessary land for housing for the plantation workers was formalized in a memorandum of understanding which was signed between the landowners, the regional

plantation companies and PHSWT. The workers will also benefit from being close to social infrastructure such as schools, safe water, etc. The Government in February 1997 took the initiative to transfer the ownership of line rooms to estate workers' housing cooperatives.

63. The Government has recognized that the housing development policy for the estate sector should be a complete human settlement development approach centred on the provision of adequate housing and social infrastructure.

D. Estate health

64. Intervention by the Government in the health sector in the last 20 years has assisted in making a steady and remarkable improvement in the health status of the estate population. The health provisions included maternal and child health services, nutrition programmes, national disease control programmes such as the expanded programme on immunization, and the control of diarrhoeal diseases, family planning, a health management information system, improvements in provision of safe water and sanitation and crèche development. Parallel to this intervention, systematic health education programmes were also implemented with positive results.

65. Thus, although there were wide disparities between national and estate health statistics even in the early 1980s, these disparities have been greatly reduced in the 1990s. Some key achievements are as follows:

- Significant decline in the infant mortality rate from 75 per 1,000 in 1980 to 29 per 1,000 in 1994. Maternal mortality, however, continues to be high;

- Decline in the birth rate from 37 per 1,000 in 1980 to 17 in 1994, which is comparable with the national average;

- Reduction of non-institutional births, which has contributed significantly to lowering mortality. In 1993 only 8 per cent of total estate births were at home assisted by unqualified persons.

66. The Family Health Bureau introduced the expanded programme on immunization to the estate sector in 1980 with assistance from UNICEF. Broad coverage has been achieved with emphasis on age-appropriate immunization. Virtually all infants have been immunized with BCG while the coverage for measles vaccine is 96 per cent; 98 per cent and 97 per cent of infants have received three doses of triple vaccine and oral polio vaccine, respectively.

67. Estate workers have access to both the national health care system as well as health care facilities run by the estate management. The availability of health facilities in estates varies from estate to estate. In 1993 there were 53 estates with hospitals, 201 with maternity units, 449 estate dispensaries and 1,634 crèches. Shortage of qualified staff is, however, a persistent problem. In 1993 there were 26 registered medical practitioners, 50 assistant medical practitioners, 113 estate medical assistants, 52 pharmacists, 314 midwives, 388 plantation welfare supervisors and 1,531 crèche attendants to serve the plantation population.

68. It has now been recognized that further improvements in this area have to be through better housing and housing environment, because other direct health intervention has reached saturation point.

III. INDIGENOUS PEOPLE

69. Sri Lanka is home to a small number of indigenous people known as the "Wanniyalaeto" or "Vedda" who are the descendants of the island's original inhabitants. While the majority of these people have integrated and intermarried with other communities, a small number have retained certain elements of the indigenous lifestyle, such as hunting and chena cultivation.

70. Although government policy after independence was that these people should be assimilated into the mainstream of Sri Lankan society, this policy has undergone a drastic change in recent years. Thus, upon the declaration of the International Year for the World's Indigenous People in 1993, a national committee under the Ministry of Environment was established, with Cabinet approval, to embark on a programme to enhance the knowledge and understanding of indigenous people in Sri Lanka and to assist them in preserving valuable aspects of their culture. The programme of action undertaken by the committee emphasized the raising of awareness among the public on the rights of indigenous people and research into various aspects of their culture.

71. On the declaration of the International Decade of the World's Indigenous People, the Ministry decided to set up a permanent forum to deal with matters pertaining to indigenous people. A seminar and workshop organized by the Ministry in April 1996 brought together academics, researchers, and policy-planners to draw up an appropriate plan of action for the Decade. A major concern of the permanent forum is the preservation of the culture and lifestyle of the Veddas, and the creation of awareness through the media on the rights of indigenous people in order to preserve their lifestyle.

72. The Government, however, continues to be vexed by the question of certain forestland which was declared a national park and which is claimed by a group of indigenous people as their ancestral lands. Under the Mahaweli Development Project, which was designed to meet the hydropower irrigation and agricultural needs of the country, an area of 198.72 square miles situated in Uva province was declared as the Maduru Oya National Park in 1983. The park was to serve the purpose of providing a habitat for wildlife displaced by activities undertaken by the Mahaweli Development Project and protect the catchments of the Maduru Oya and connected reservoirs, which are an integral part of the Mahaweli Development Project.

73. The indigenous inhabitants of these lands were voluntarily relocated in a rehabilitation village and were given irrigated lands and assistance for housing, agriculture, etc. The park was deemed out of bounds. However, seven families who refused to leave the forest were allowed to occupy a patch of land on the periphery of the reserve. Of the 30 families who were resettled, some families have been content with their new life while others have been unsuccessful in adjusting and have expressed a wish to return to their customary habitat and lifestyle in the forest.

74. In response to this request by some members of the Vedda clan, in June 1990 Cabinet considered and approved the "establishment of a sanctuary in 1,500 acres of land within the Maduru Oya National Park for Uruvariage Tissahamy (Vedda chief) and the Vedda clan to pursue their traditional way of life". The Cabinet memorandum undertook to:

- Demarcate an area of approximately 1,500 acres from the area gazetted as the Maduru Oya National Park, and declare this area as a sanctuary under the fauna and flora protection ordinance; and

- Take specific measures to protect and nurture Vedda culture and establish a trust or a board for this purpose under the chairmanship of the Director of Wildlife Conservation with representation from the Ministry of Cultural Affairs and other relevant State agencies and non-governmental organizations.

75. The survey and demarcation of the land in the terms of the Cabinet decision was completed in 1992. The operation of the provisions of the Fauna and Flora Protection Ordinance in this area has since been suspended. The representatives of the Wanniyalaeto community have, however, refused to accept this as a solution to their problem on the basis that the extent of land is inadequate.

76. In a further attempt to find an acceptable solution and following representations made by the Wanniyalaeto at the fourteenth session of the United Nations Working Group on Indigenous Populations, in September 1996, the Government appointed a committee comprising secretaries of relevant ministries to examine the issues faced by the Vedda community through discussion with the elders of the community and to make recommendations based on solutions mutually agreed upon. The Committee's deliberations are continuing.